

No. 16,981
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES
VS
ALBERT M. MORRISON, et als.

VOLUME 2.

NO
U. S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW YORK DIVISION
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UNITED STATES

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No. 16,981

VS

* UNITED STATES DISTRICT COURT

ALBERT M. MORRISON, et al. * EASTERN DISTRICT OF LOUISIANA

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Proceedings had in open Court in the above entitled and numbered cause before HON. C. B. KENNAMER, Judge, on the 1st, 2nd, 3rd, 4th, 5th and 6th of May 1933, at New Orleans, La.

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I N D E X:

L. E. EDELL	331		
F. B. Kennedy341	W. S. Hart410
F. B. Walker347	L. P. Adams414
Harry Lawton351	R. H. Love436
A. E. Schiro, recalled	.357	C. W. Prather438
Allen H. Generes362-489	Horace Smith451
Henry J. Ottnot367-369-429	John Farmer460
Curtis Williams, Recalled	369	Mrs. Robt. Brucker468
Mrs. Lillian Daunhauer	.373-427	Harry F. Richardson471
Frank Paul385	W. Bruce Murray473-490
A. W. Powell392	Miss Agnes Andre486
R. S. Miller408		

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L. E. EDELL: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

- Q Please state your name? A L. E. Edell.
- Q What is your position?
- A Assistant Cashier, Hibernia Bank & Trust Co.
- Q Are you at the main bank? A Main office.
- Q And were you in that position during 1930 and 1931?
- A Yes.
- Q Do you have charge of the specific transfers of money?
- A The ones in the United States, yes sir.
- Q Will you state whether or not you transferred a sum of money, \$1,000, about December 15, 1930, to Kennedy Bros. I believe it was, in Biloxi, Miss.?
- A I did, yes sir.
- Q At whose instance was that done?
- A Telephone message from Mr. Schiro, Manager at the Decatur Branch.
- Q Just explain the procedure. If a customer wanted to transmit \$1,000 by telegraph to Biloxi, Miss, and he is near your branch bank, just what would he do?
- A Go in there and pay the \$1,000 plus the charges to the branch bank and they would phone it to me, and I would wire our correspondent to make the payment, and credit

their account on the books and charge the Decatur Branch bank.

Q And the record of that transaction would be entirely in your bank?

A In the main office would be a record of the telegram to the bank.

Q Have you that record with you of this particular transfer?

A The Court has it.

Q I show you that and ask if the yellow sheet - what is that? (Counsel hands witness document and witness examines same)

A The yellow sheet is a receipt from the Peoples Bank at Biloxi for \$1,000, signed by Kennedy Bros., W. K. Kennedy, Jr. That is the \$1,000 I wired over there for the Decatur Branch, telegraphic message. (Indicating)

Q Now you are looking at the Postal Telegraph blank?

A Postal Telegraph blank, record of my telegram to Biloxi, asking the Peoples Bank to pay Kennedy Bros. \$1,000 for E. A. Smith.

Q That is not in plain English?

A In code. "Charge our account notify and pay Kennedy Brothers Biloxi \$1,000 from E. A. Smith, your account credited."

Q Is that a copy of the telegram that was actually sent?

A Yes, that is a copy of the telegram that was actually sent.

Q You know that to be a fact?

A Yes. I looked that up and verified those myself.

OFFER: MR. WOODCOCK:

I offer the yellow slip in evidence, and the copy of the telegram. We have not the original.

MR. SLADE:

Will Your Honor permit me to ask a few preliminary questions before Your Honor rules on that?

THE COURT: Yes.

BY MR. SLADE:

Q Do you remember the government agent coming to see you in relation to this particular matter?

A Yes, he came to see me.

Q And that was after April, wasn't it?

A May I look at the record I have?

Q If you have got a record of his visit?

A No, not his visit, but something that will tell me -

BY THE COURT:

Q If you have any memorandum that will help you to fix the time, you may refresh your memory?

A (Witness refers to documents) On February 3, 1932.

BY MR. SLADE:

Q February 3, 1932? A February 3, 1932, yes.

Q Do you remember the name of that agent?

A No sir.

Q Can you describe the kind of a man he is, his appearance?

A I can't say, no.

Q And were you advised before he came there by the agent who preceded you on the chair from your bank, that this man was going over to see you with relation to certain records?

A I don't remember.

Q You do not remember? A No sir.

Q That you were first called up by this Mr. Schiro?

A I do not remember whether he called me or not.

Q And when this government agent came there he showed you some papers, did he?

A I think he showed me a copy of a telegram and asked me for a receipt.

Q Did he show you anything else besides the telegram?

A I don't think so.

Q Didn't he tell you that telegram and the other papers that he had before you, that the information he was seeking was referred to in that telegram and other data; in other words, directed to this specific matter you were questioned about this morning?

A Yes.

Q You read the telegram and the telegraphic copy of this telegram you have here?

A Yes sir.

Q Did he tell you where he got it?

A I do not remember.

Q Did he tell you it was obtained in a raid?

OBJECTION: MR. WOODCOCK:

Objected to, because it would be hearsay at best, and the witness previously said he did not know.

THE COURT: Overrule the objection.

BY MR. SLADE:

Q Didn't he tell you that was a fact?

A I don't think he did.

Q You read it in the newspapers in April?

A I have a slight recollection of it.

OBJECTION: MR. SLADE:

I now object to that, or any evidence offered as a result thereof. Here is an attempt again to get information from a paper that has been suppressed by this Court, and I am -

MR. WOODCOCK: That is simply a misstatement of facts.

THE COURT: Overruled.

MR. SLADE:

Exception. I do not like to be charged with misstatements.

MR. WOODCOCK: It is. The witness has not said -

MR. SLADE:

We say that is one of the papers returned under the Court's order.

THE COURT: You mean the telegram?

MR. SLADE: The telegram.

MR. WOODCOCK: I think that is not correct.

MR. SLADE:

I do not think that is a misstatement of facts.

MR. WOODCOCK:

You are certainly misstating the facts.

THE COURT:

This Court is not inclined to go off on propositions of agents using papers after the Judge has ordered them returned, and documents; of course, this Court will not permit any of those to be offered in evidence, but they can go to the bank and ask for this information without seizing the telegram.

MR. SLADE:

Right, but they ask for specific information secured from documents unlawfully, and it is information he secured from those unlawful documents that the Court says he cannot use for any purpose.

THE COURT:

I do not understand the law to be, because a government agent illegally seizes a document, paper or book, and they are ordered returned by the Court, that he is precluded from going out and finding such other documents and papers that might apply to the case. You cannot call on these defendants for copies, or use copies of the documents that the Court ordered suppressed.

MR. SLADE:

Or evidence that goes with them. I submit evidence of this character is not in this case. That is our reason for our plea in abatement. We cannot go further under Your Honor's ruling, and if we could, we could have disclosed all this to you. I am not charging my friend here, because he may not know anything about it.

MR. WOODCOCK:

Give your friend an opportunity to speak for himself, and he may be able to explain.

MR. SLADE:

In all fairness to the accused here, I think you ought to get this agent in here and determine the facts. It is a very unfortunate position Counsel is placed in before the jury.

MR. WALLACE: We move now to exclude the jury.

THE COURT: Overruled.

MR. WALLACE:

Exception. Will you allow me to make an objection to the remarks ^{of} Mr. Woodcock, leading Counsel for the United States government, in which he said in words and figures, substantially as follows - the Court heard him say in the opening of his case that the defendant Morrison had sent a telegram -

THE COURT:

It is not necessary to go into all these details and

put a whole lot in the record that way. You may have an exception. I have ruled out information secured by documents and papers ordered returned by the Court. I see no reason why an intelligent and diligent agent could not have gone, if necessary, to all banks and ascertained whether such sums were transferred. Counsel for the government in his opening statement said he expected to prove Morrison himself said he transferred 6,000 grand, which he understood to be \$600,000. Then he could have gone to all the banks in New Orleans to see - I will give you an exception. Overruled.

MR. SLADE: Exception.

MR. HOLLINS: (ARGUMENT TO COURT)

THE COURT:

You gentlemen may have your exception. Proceed with the examination.

MR. SLADE:

Your Honor made the statement to the effect that the Colonel stated in his opening statement to the jury that he was going to have admitted that he transferred \$600,000. That is not the statement he made. He said he would show an admission that he told someone he made \$600,000 -

MR. WOODCOCK:

I will quote it exactly; that he had sent 600 grand, and

I said that meant \$600,000, and that is what the testimony will show.

THE COURT:

Overruled. Gentlemen of the jury, any evidence that the agents procured that was independent of the documents and papers already returned, is admissible in evidence. You may have an exception.

MR. SLADE: Exception.

MR. GEX:

May we have an exception to the testimony of another record in the other case, including the Court order, because we cannot take advantage of our exception without it.

THE COURT:

I presume the defendants will offer it in their testimony. I will permit you to offer it when you take your testimony.

MR. GRACE:

We would like to renew both of our pleas in abatement at this time.

THE COURT:

It does not have to be renewed once it has been filed.

OBJECTION: MR. GEX:

I move to exclude the testimony in reference to the following defendants -

THE COURT:

I understand the motion to exclude is on behalf of all of the defendants.

MR. GEX: I exclude it especially on behalf of the Mississippi defendants.

OFFER: MR. WOODCOCK:

I offer government exhibits 50 and 51.

OBJECTION: MR. SLADE: I object to that on all the grounds -

MR. WOODCOCK: Do not go over all that.

MR. SLADE:

I wish you would be good enough to sit and listen to me.

THE COURT: Gentlemen, address the Court.

OBJECTION: MR. SLADE:

(Counsel continuing) - on all grounds outlined, being a violation of our rights, and a violation of the Court's order suppressing this testimony, not binding upon us, pure hearsay, and no connection having been made for its admission.

THE COURT:

As I recall it was shown that was to be paid to Kennedy Bros.?

MR. WOODCOCK: Yes, Your Honor.

THE COURT: What is the connection with Kennedy Bros.?

MR. WOODCOCK:

Kennedy Bros. used this money to pay for the motor.

Mr.
OBJECTION; /SLADE:

We object to that. He is stating something that is not evidence.

THE COURT:

Counsel has the right to say what he expects to prove, and if he is unable to make such proof, the evidence will be excluded.

MR. WOODCOCK: That was in answer to the Court's question.

MR. SLADE: Will Your Honor give me an exception?

THE COURT:

I gave you an exception. If it is not connected with this transaction, then I will exclude it.

- - - - -

F. B. KENNEDY: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A F. B. Kennedy.

Q Mr. Kennedy, you are a resident of what place?

A Biloxi, Miss.

Q What is your business?

A Selling marine engines, marine supplies, radio and electric refrigerators.

Q Will you state whether or not in the fall of 1930 you built a certain lugger called the Nonpareil?

A No sir, I didn't build it.

Q What did you do in respect to her?

A I sold the engine that went into the boat.

OBJECTION: MR. SLADE:

I ask that be stricken out. He did not build anything.

THE COURT:

Do you know the engine that went into that boat?

A Yes sir.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q The boat Nonpareil? A Yes, the Nonpareil.

Q Do you recall how that engine was paid for?

A I can recall one instance we received a check through the Peoples Bank in Biloxi, Miss.

Q Peoples Bank of Biloxi? A Yes sir.

Q What was the amount of that? A \$1,000.00

Q And can you give the approximate date?

A Some time in 1930.

Q The latter part or the early part; you have the record there?

A (Witness refers to record) The motor was shipped December 17, 1930.

Q When did you get the money for it, or the \$1,000 payment on it?

A Let's see - I don't remember the exact date of that.

Q Was it prior to December 17th?

A I believe it was. I am not positive of that.

Q How were you notified that the money was there?

A Through the Peoples Bank of Biloxi.

Q Now, do you know who transmitted that money?

A No sir, I do not.

Q What you know is that the Peoples Bank notified you?

A They notified Kennedy Bros. that they had a payment there of \$1,000.

Q For what purpose?

A For the purpose of paying for the engine.

Q For what boat?

A I don't remember at that time - it was not specified for the boat at that time, but it was for the engine that went into a boat.

Q And what boat was it, which it went into?

A The Nonpareil?

Q And where did you proceed to get the engine?

A We ordered it from J. W. Lathrop & Co.

Q And the date of that was the 17th, the shipping date?

A The shipping date.

Q How did you order it?

A I don't remember whether I ordered it by letter or wire.
(Witness refers to documents) I think it was by - I am

not sure, but I think it was by letter.

Q You have stated that you did get the engine and installed it?

A No, we didn't install it. We ordered it from the factory.

Q And whom did you deliver it too?

A I delivered it to F. B. Walker, Pascagoula, Miss.

Q Was there any balance to be paid on the engine.

A I don't remember the exact transaction and the balance of it.

Q Did you ever have any complaint about this engine?

A Yes. There was a hole in the cylinder, and we notified the factory and they sent us a new cylinder.

Q And who made the complaint?

A The boat came in, and some member of the crew came into our office and said -

OBJECTION: MR. SLADE:

I ask that be stricken out; no identification.

THE COURT:

Some member of the crew of the Nonpareil?

MR. SLADE: He did not say that.

BY THE COURT:

Q Member of the crew of what boat? A Nonpareil.

BY MR. WOODCOCK:

Q Did you go to the boat? A Yes sir.

Q Could you say what boat it was in? A Nonpareil.

Q You did some work on it?

A Blade parted in the rear. I tried to take the fly wheel off and it was too hard, so I recommended a machine shop and they did the work.

Q Do you know who was the transmitter of that money to the bank at Biloxi?

A No sir.

Q You inquired?

A No sir.

Q You got paid for it?

A I ordered it and got paid for it, yes sir.

Q And you afterwards saw it in the boat?

A Yes sir.

CROSS EXAMINATION:

BY MR. SLADE:

Q You had no part of your dealings that you have testified to here, with a man named Morrison, did you?

A No sir.

BY MR. GRACE:

Q You had no dealings with Nate Goldberg with reference to this matter?

A No sir.

BY MR. HOLLINS:

Q You had no dealings with Samuel Rifas or Ray Miller with respect to that boat?

A No sir.

BY MR. WAGUESPACK:

Q You had no dealings with Sam Carrolla with respect to this boat?

A No sir.

Q Or Frank Todaro?

A No sir.

BY MR. DOWLING:

Q Or Pascal Tuminello?

A No sir.

BY MR. O'NEAL:

Q You say the crew of the Nonpareil complained with relation to this motor?

A As far as I know it was the crew come off the boat.

Q Could you describe who the man looked like that complained to you, supposed to be a member of that crew?

A No sir, except he had workmen's clothes on.

Q Would you mind stating whether you see him among these people?

A No sir, I don't see him here.

MR. SLADE:

I want to show insofar as these defendants are concerned, under Your Honor's ruling it is not admissible against us, in view of this witness' testimony. I want the record to show that my objection goes to all his testimony.

THE COURT:

As I recall the testimony it does not affect any of the defendants unless the conspiracy is made out, except

the defendant Morrison, who caused the money to be sent.

MR. SLADE:

Your Honor has made the suggestion that Morrison caused the money to be transferred. I did not so understand the witness' testimony. Two men came down there.

THE COURT: That is the effect of which it is offered for. I am not saying it proves that. You have had your exceptions to the testimony as it has gone in. Proceed with the examination.

F. B. WALKER: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A F. B. Walker.

Q What is your occupation? A Boat builder.

Q Do you remember building a boat called the Nonpareil?

A I do.

Q When did you lay her keel?

A In the latter part of 1930.

Q Where did you get the engine for it?

A Shipped to me, I think, by Kennedy Bros.

BY THE COURT:

Q That is your recollection?

A That is my recollection.

BY MR. WOODCOCK:

Q When was that boat built?

A The early part of 1931.

Q To whom did you deliver it? A J. Osborne.

Q Do you know Mr. J. Osborne? A Yes sir.

Q Where does he live?

A He gave his address as Pascagoula.

Q Have you seen him since? A Yes sir.

Q Did you ever do any repairs on this boat afterwards?

A I did.

Q Who brought her to your place for repairs?

A Well, she was there twice for repairs, or three times possibly.

Q Who brought her?

A The first time she was brought by Felton LeBouef.

Q Would you know Mr. Le Bouef if you saw him?

A Yes sir.

Q Mr. Le Bouef, where is he; Is that he? (Indicating)

A That is him.

Q He brought her there once. Who brought her there any other time?

A Captain Osborne.

Q Did you have any application to purchase this boat?

A Yes. I advertised in the Times Picayune and I had an answer to my ad.

Q Now did you build - this is a different part of the case - did you build the Talvez also?

A Yes sir.

Q When did you build her?

A In the early part of 1931, I would say in February.

Q To whom did you sell the Talvez?

A To Felton Le Bouef.

Q What was the purchase price?

A \$2800.

Q And how was it paid?

A In cash.

Q And you delivered that boat to Felton Le Bouef, the same man who brought the Nonpareil to your place?

A I did.

Q Did you ever have any dealings with a man named O'Brien in connection with this? A Yes.

Q Did he buy either of these boats?

OBJECTION: MR. SLADE:

I object on that as irrelevant, incompetent and immaterial.

THE COURT:

Is Mr. O'Brien one of the defendants?

MR. WOODCOCK:

I do not know, Your Honor. I am trying to couple it up.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Did Mr. O'Brien buy either of these boats or pay any of the purchase price? A Yes.

Q Which boat did he pay for?

A I think he paid for both of them. That is my best recollection.

Q Then your statement that Le Bouef paid for it was not quite accurate? A It was transferred to him.

Q He was what you would call the registered owner?

MR. GRACE: That is of record.

MR. SLADE: O'Brien was not a defendant.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Is it your statement that O'Brien paid for each of those boats?

A Yes. He may not have paid me all the money, but I think he transacted for both of the boats.

Q Do you know who Mr. O'Brien is?

A I know him as O'Brien.

Q Have you ever seen him since?

A Yes. I have seen him since.

Q Where have you seen him?

A I can't recall just the instance, but I think he visited my place since then.

Q What address did he give you?

A I don't think he gave me any address.

Q Did he pay for these boats in cash, or by check?

A Cash.

Q All the money handed to you at one time?

A No sir.

Q If you got part payment, didn't you make some record of it?

A Only mentally.

Q And you do not remember what that was?

A I can't tell you now what the part payment was, but usually I required the payment of something like 20 per-cent on a boat.

CROSS EXAMINATION:

BY MR. SLADE:

Q Did you have any business transactions, in relation to what you have testified to, with the defendant Morrison in this case? A None.

Q You do not know him? A No sir.

CROSS EXAMINATION:

BY MR. GRACE:

Q All you know is O'Brien in this deal?

A Yes sir.

MR. WALLACE:

Defendants move to exclude the testimony of the witness Walker, because it is irrelevant, incompetent and immaterial -

THE COURT:

It will be restricted to the defendant LeBouef.

- - - - -

HARRY LAWTON: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Harry Lawton.

Q What is your official position?

A Assistant Manager Foreign Department of the Hibernia Bank & Trust Co.

Q Will you state what your duties are in cases where money is turned in by a customer at the branch bank for

transmission by telegraph to some point in Canada?

A The only procedure would be for the transaction to be telephoned to my cashier and submitted to me, and I would check the telegram before it went out.

Q Now you have received a subpoena from this Court to bring certain records here, have you not?

A Yes sir.

Q And what records have you brought in answer to that subpoena?

A I have brought all of my cable and telegraphic transfers made during the year 1931.

Q At whose instance?

A I simply received a subpoena. I don't know at any special instance.

Q I mean, are these the records of money turned in by one of your branches for transmittal?

A These are the records of the transfers made through my department abroad. All transfers for abroad pass through my department.

Q Have you segregated them, or have you any way to know those which were turned in at your branch bank, at the Decatur Street branch bank?

A I have a list here of 31 transfers for the Decatur and Holmes branch.

Q And is that the only record that there would be of those

transfers requested by your Decatur Street branch?

A I know nothing of what records have been asked for from the Decatur Street branch. I can only state as to the records I have been asked to bring.

Q You did not understand my question. Are those the only records that the Hibernia Bank would have of transfers of money from the Decatur Street branch during the year 1931 to Canada?

A That I could not say, because I don't know what records the Decatur Street branch itself kept.

Q If I limit myself to the question that those are all from the central office, would that be correct?

A These are the only records of the central office of the cablegrams.

Q And who is the consignee, or transferee, who gets the money; in other words, all the same persons or different persons?

A I have only been asked to bring those relative to transfers which were made to Vancouver where the payee was only the Burrard Stock & Bond Co.,

Q Then what you have brought here, if I may ask you, are the records of the principal bank, the main bank, of money turned in at the Decatur Street branch for telegraphic transfers to Vancouver during the year 1931?

A The principal records are all here, I think.

Q That is what you brought here, isn't it?

A That is what I brought here.

Q Those slips in those books represent separate transactions?

A Separate transactions, yes.

Q Now the information on those blanks came from where?

A It is a record made by a member of my staff.

Q Where did he get the information?

A Usually by telephone from the branch concern.

Q Do you know Mr. Schiro who was here just a moment ago?

A I know Mr. Schiro.

Q What official is he?

A He is Manager of the Decatur Street branch of the Hibernia.

OFFER: MR. WOODCOCK:

I offer these records in evidence marked G-51. The particular records are those in which a slip of paper is placed.

OBJECTION: MR. SLADE:

Objected to. May I ask the witness a few questions?

THE COURT: Yes.

BY MR. SLADE:

Q Who asked you to produce these records?

A I merely got a subpoena.

Q Is that the first time you heard anything about them?

A The first time.

Q Did you get some information from this gentleman you call Mr. Schiro?

A No. I had no conference or any information from Mr. Schiro regarding this, and I only knew subsequently, when I was about to come to Court, that he was called.

Q All you know is you got a subpoena?

A All I know is I got a subpoena.

Q And you know nothing about the record except certain entries made in your bank there?

A Yes sir.

Q And your attention to these records, as directed by Mr. Schiro - did he tell you what records they wanted?

A No sir, directed by the subpoena.

Q When was that subpoena served on you?

A About ten days ago.

Q That was the first time? A First time.

Q You did not speak to any government official in connection with this transaction? A No sir.

Q At no time? A At no time, no.

Q None of these records show at whose request, or upon whose application these transfers were made?

A No sir. When they come from the branch office we merely put the branch office name on it.

Q But so far as all these records you produced here are concerned, you cannot identify on whose request, or whose behalf, or whose direction, they were made?

A On this particular transaction, no.

Q I am talking so far as you are concerned?

A So far as I am concerned.

Q Nothing in this record to indicate that?

A All records indicate the branch from which it originates.

Q You mean somebody in the branch directed the transfers to be made, and the transfers were made?

A That is correct.

Q But no indication on these papers, showing either at whose request this was made, upon whose direction, or whose application?

A No sir.

OBJECTION: MR. SLADE:

At this time we object to that as irrelevant and immaterial, no foundation having been laid, not binding upon the defendants.

THE COURT: What is the testimony?

MR. WOODCOCK:

The testimony of Mr. Schiro is that Mr. Morrison, and Mr. O'Neal whom he knew as Smith, came to him and made - Your Honor will recall you asked him this - numerous requests for telegraphic transfers of money to Canada. I am not so sure whether I asked him Vancouver or not; I will, if necessary, bring him back and ask him that question; I think it was Canada; these men made numerous requests between 1930 and 1931 for transmission of sums of money by telegraph to Canada, which he in turn would

take the money to the manager of the foreign department here, whoever happened to be there, gave them the data, and the transfers made. There is no record made in the principal bank, except what is here, and Schiro, my recollection is, testified that he made no record, simply a telephone or telegraphic arrangement.

THE COURT:

I think we better reexamine Mr. Schiro.

MR. WOODCOCK: Yes sir.

THE COURT:

I will reverse my ruling on the admissibility^{of} those papers until we hear the testimony of Mr. Schiro further.

✓ - - - - -
ANDREW E. SCHIRO: RECALLED:

BY MR. WOODCOCK:

Q Mr. Schiro, will you state whether or not Mr. Smith, you knew Mr. Smith - the gentleman I point out - made during 1931 any requests for the transfer of money by telegraph at your branch bank to Vancouver, B. H.?

OBJECTION: MR. WALLACE:

We object, because the question is leading.

THE COURT: Overruled.

MR. WALLACE: Exception.

A Well, I can't remember that offhand. The records would show that.

Q Where was the record?

A Mr. Lawton should have them.

Q You kept no records whatsoever? A No sir.

Q Well, do you remember these gentlemen making any request of the kind to you at all? A Sometimes, yes.

Q Now would you be able; or have you ever seen the records that they kept? A No sir.

Q You have never seen these books? A No sir.

Q Do you recall any other customers, making during 1931, numerous requests for transfers of money to Vancouver?

OBJECTION: MR. SLADE:

I object to that as irrelevant and immaterial, whether other customers did anything.

THE COURT: Overruled.

MR. SLADE: Exception.

A Well, I can't place the names nor the persons, because in the first place it is too far away, and we have those requests daily, both from other countries and those places.

BY THE COURT:

Q Do you now recall whether the requests for transfers by Mr. Smith and Mr. Morrison were ordered to be paid to the same payee? A I don't recall it.

BY MR. WOODCOCK:

Q You do recall that they did make requests for the transfer

of money to Vancouver during 1931?

OBJECTION: MR. SLADE: I object.

THE COURT: Overruled.

A I would not say Vancouver . We sent to Havana, Vancouver, and some place else, but different people. I cannot say whether the ones they sent were to Vancouver.

BY THE COURT:

Q You cannot remember the payee in any instance?

A No sir.

Q You handle many transfers of people in general?

A Yes sir. Everybody that comes in the place, we just get the name and give it to the main office.

BY MR. WOODCOCK:

Q Don't you make any memorandum at all?

A We do not. John Brown comes to the bank and gives me \$10,000, and I take the name and place and telephone it to the main office.

Q Of course, you must take the name and place?

A No question about it, on a piece of paper.

BY THE COURT:

Q How are these transactions made, by telegraph or cable?

A Outside of the United States, Cable naturally, and local by wire. We have two departments., one foreign and one domestic.

BY MR. WOODCOCK:

Q You certainly make some entry in your book in the branch bank when a man comes in and hands you \$10,000 in cash?

OBJECTION: MR. SLADE: I think the witness stated his method.

A We get this money, telephone to the proper department, and in the statement for that day put it in the statement sheet.

BY THE COURT:

Q If he had an account with the bank, you would charge his account? A Yes, sometimes give us a check.

Q Would the record of your bank show whether his account is charged with it or not? A It would.

BY MR. WOODCOCK:

Q This transaction I asked you about; I asked you about a cash transaction? A Yes sir.

Q You have a definite recollection of that?

A Yes sir.

Q On more than one occasion? A Yes sir.

Q Can you say whether some of that money was for Canada?

A I can't say.

Q Where was it to go?

OBJECTION: MR. SLADE: The witness has stated.

THE COURT: He stated about that.

BY THE COURT:

Q Is it your recollection that Mr. Smith and Mr. Morrison, in all these transfers you are talking about, brought cash? 360

A Mostly, yes, but I mean not all those transfers were for their account. We have other people who come in and buy transfers of that sort, but I can't say now who they are.

BY MR. WOODCOCK:

Q Mr. Morrison has a checking account with you?

A Yes sir.

Q And wasn't that one of the papers you showed me this morning?

A Yes sir.

Q That would show whether -

OBJECTION: MR. SLADE:

I object to what that paper shows, Your Honor.

MR. WOODCOCK:

I asked him to bring it up here, may it please the Court.

BY THE COURT:

Q If the man had a checking account with your bank and bought a cash transfer, that would not be credited to his account?

A No sir. The only time the account is charged, if he gave us a check against the account.

THE COURT:

I think you better let him bring the rest of the record in. For the present I will not admit those papers.

MR. WOODCOCK: That is quite all right.

MR. SLADE:

I reserve the right to cross examine him when he brings them.

MR. WOODCOCK:

I will ask the witness to come back with the papers.

- - - - -

ALLEN H. GENERES: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Allen H. Generes.

Q What is your business, Mr. Generes?

A I am in the real estate business, and President of the Conservative Homestead Assn.

Q Are you charged with the oversight or care of apartments at #7530 St. Charles Ave.?

A My association owns the property.

Q And what is your position in the association?

A President.

Q Have you brought the records of the rental of apartment No. 1 for 1930 and 1931 in that place - apartment No. 11 -
pardon me?

A Yes sir.

Q Did you make the contract with the tenant?

A Our agent did.

Q Did you ever see the tenant?

A No, I can't say that I did see him.

Q You have the record there of his occupancy?

OBJECTION: MR. SLADE:

I object to his occupancy. He asked did he ever see the tenant and the witness said no.

THE COURT:

Let him testify how long the tenant occupied the apartment.

BY MR. WOODCOCK:

Q What period of time did that cover; when did the individual go into apartment No. 11?

MR. SLADE: Apartment No. 1, you mean?

THE WITNESS:

You haven't asked me who occupied the apartment yet. These tenants come and go, you know.

BY MR. WOODCOCK:

Q I direct your attention to the entry of a man named B. M. McGregor?

A (Witness refers to document) Mr. McGregor paid us on January 5th, \$100.00 covering rent up to February 5, 1931.

Q For apartment No. 11?

A For apartment No. 11. He made us another payment on February 3, 1931 for the same apartment, covering the following month.

Q Is that the last payment?

A According to our records, yes.

Q Renting down to when?

A From February 3rd to March 5th. He paid on February 3rd to take care of his rent.

Q Where does it show that it is apartment No. 11?

A (Witness indicating)

Q Is that the only record of the tenant of apartment No. 11 that you had? A Of the only tenant.

Q No. Is that the only record of the tenant of that apartment during January and February 1931 that you kept?

A Mr. McGregor occupied the apartment during those two months.

Q You did not understand the question. This was the only book of account for that apartment during that period?

A These are our ledger sheets. We have the report from the operator turning in the amount.

Q That is your ledger sheet showing rental of that apartment? A Yes sir.

Q Who does that ledger sheet show was the tenant?

A McGregor.

Q What are his initials? A B. M.

OFFER: MR. WOODCOCK:

We offer that sheet in evidence, those particular entries.

MR. SLADE:

May I examine this witness before I make my objection?

THE COURT: Yes.

BY MR. SLADE:

Q Were you interviewed by any government official in relation to those records? A No sir.

Q Who asked you to bring them here?

A We were subpoenaed.

Q Was that the first time? A Yes sir.

Q Do you know anybody in your office who was talked to before they subpoenaed you in relation to these records?

A Served on our J. J. Puissegur.

Q Do you know who in your office was talked to the first time by the government officials in regard to those records and the subject matter?

A If they ever spoke to anyone I was not informed of the fact.

OBJECTION: MR. SLADE:

We object to those papers as incompetent. No connection has been made so far as the record at this time shows, irrelevant and immaterial.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Point those McGregor entries out again?

A (Witness does as requested)

BY MR. GEX:

Q Before they are offered in evidence, I will ask you did you make these entries? A No sir.

Q You do not know if they are correct unless your book-keeper made them correctly?

A We assume they are correct. The books were audited on several occasions and -

Q You do not audit the names? A No sir.

OBJECTION: MR. GEX:

We object on the ground he is not the keeper of the record, and does not know.

BY THE COURT:

Q Do you know personally of such transactions?

A Yes sir.

MR. WOODCOCK:

For convenience, I ask that it be stipulated that the record of the Demoruelle Apartments shows that on January 5, 1931, Mr. B. M. McGregor paid \$100.00 for apartment No. 11 -

OBJECTION: MR. WALLACE:

We object to that, because that has been offered once before.

THE COURT: That is just a stipulation.

MR. WOODCOCK:

(Counsel continuing) - paying^{for} the rent up to February 5th, and on February 3rd, Mr. McGregor came in and made

another payment.

MR. GEX: Not came in.

MR. WOODCOCK:

The record shows that another payment was made of \$100.00.

Q In the same name? A In the same name.

Q B. M. McGregor; how long did that pay the rent to?

A Up to March 5th.

Q The record shows that? A Yes sir.

MR. SLADE:

This stipulation is to simplify matters and agree it is written in the record, ~~xx~~ without waiving any previous objection.

MR. WOODCOCK: We understand that.

THE COURT: Yes.

- - - - -

HENRY J. OTTNOT: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Henry J. Ottnot.

Q Mr. Ottnot, what is your occupation?

A Manager Motor Vehicle Bureau, 526 Canal St.

Q You have charge of the licensing of automobiles in the State of Louisiana? A Yes sir.

Q You had a subpoena to bring with you the application

for the vehicle which received license No. 40016 for 1931. Did you bring that with you?

A Yes. It is on the yellow sheet of paper .

Q Is this it? (Hands document to witness) A Yes.

Q Where is the original record?

A Up at Baton Rouge. That is copied out of the book. We have no originals here. They are up in Baton Rouge. The rest of the applications, the original ones, are in that book. (Indicating)

Q Is that the original application for that vehicle?

A The number you just called?

Q Yes. A 40016, yes.

Q For the year 1931? A Yes sir.

OFFER: MR. WOODCOCK:

I offer this in evidence marked G-52. That is one of the trucks that the witness Williams saw in Mr. Haas' garage.

MR. GEX: It is very clear the witness said 4016.

MR. WOODCOCK: 40016.

MR. GEX: He said the numbers he saw were 4016.

THE COURT:

That is where we get mixed up. I took it down myself.

He said 40 0 16. That is the way he said it.

A JURYMAN: That is the way the jury understood it, 40 0 16.

THE COURT:

I made a note of it, 40 0 16, but you can call the witness back.

MR. GEX: Suppose we call him back.

THE COURT:

If the witness is here, he can be recalled. I think two of us are in agreement about it. Let the witness come back here.

- - - - -

CURTIS WILLIAMS: RECALLED:

BY MR. WOODCOCK:

Q Now, Mr. Williams, I want you to tell us again what were the numbers of those trucks that you saw?

THE COURT: Speak out distinctly and slowly.

A 40 O 16, 40 O 17 and 40 O 19.

MR. WOODCOCK: That is all.

BY MR. GEX:

Q Nobody talked to you just now? A . No sir.

- - - - -

MR. HENRY J. OTTNOT: RECALLED:

OFFER: MR. WOODCOCK:

I offer the original application of registry for the car.

THE COURT: What number?

MR. WOODCOCK: 40-016.

THE COURT: Let the stenographer identify it.

OBJECTION: MR. SLADE:

I object so far as the defendant Morrison is concerned as not binding upon us.

CROSS EXAMINATION:

BY MR. WALLACE:

Q Mr. Ottnot, were you present when this application was signed by the applicant?

A That is not necessary. They can send them in.

Q Read the question?

BY THE COURT:

Q You have no recollection of seeing it signed yourself?

A No sir.

Q The State Department handles those applications?

A Yes sir.

BY MR. WALLACE:

Q You did not handle this transaction personally?

A No sir.

Q That is to say the transaction represented by this application for license No. 40-016?

A No, I can't say that.

Q You did not see the man that made the application?

A I could have seen him, and then I couldn't. We don't remember every one that comes in for licenses.

THE COURT:

The witness does not testify any knowledge whatever.

THE WITNESS:

That is the original record of the State Department, and we sell 80,000 a year.

OBJECTION: MR. WALLACE:

As to the defendants in this case, we object to the instrument, because it is incompetent, irrelevant and immaterial, and does not in any wise refer to any conspiracy of any nature, and especially it is not shown that any defendant in this case had anything to do with the application for this license.

MR. WOODCOCK:

May I ask for what defendants that motion is made?

MR. WALLACE: All of them.

MR. WOODCOCK: You represent all of them?

MR. GRACE: I object.

THE COURT:

You may have an exception as to all defendants. Gentlemen of the jury, the evidence is only against the party who made the registration, and unless the testimony establishes a conspiracy --- if it does, the act of the party who made the registration, if in furtherance of the conspiracy, all of them are bound by it.

BY MR. WALLACE:

Q Are you keeper of that record?

A The original goes to Baton Rouge.

Q I ask the question be read?

A Those records go to Baton Rouge.

Q You are not the keeper of the record?

A They are sent to Baton Rouge.

Q You are a business man? A Yes.

Q In charge of the affairs of the State of Louisiana?

A Yes.

Q Read the former question back? (Question read) You are not the keeper of those records? A No sir.

OBJECTION: MR. WALLACE: We move it be excluded.

BY MR. WOODCOCK:

Q You know this is the official application for that vehicle? A Yes sir.

BY THE COURT:

Q How do you know that?

A I have been there eight years. I have been selling licenses for the State, and it shows our record here.

Q But you are not legally the custodian of such papers?

A We keep them until such time as we send them to Baton Rouge. They hold all records of all licenses at Baton Rouge. These were mailed from Baton Rouge. (Indicating)

Q You keep carbon copies?

A We make five copies. Three goes to the State.

Q Do you keep any copy? A Yes sir.

Q Have you your copies?

A I can send and get them.

THE COURT:

I think the witness can bring them and testify if they

are the originals of the copies.

MR. WOODCOCK:

One of the jurymen asked to see this. (Indicating)

THE COURT:

Until it is made competent, I guess it would not be proper to let the jury see it. It is excluded for the present.

MR. WALLACE:

I just ask the Court when they do come, that they be read to the jury if the Court allows them.

THE COURT:

All right. Let the witness remain with the carbon copies.

- - - - -

MRS. LILLIAN DAUNHAUER: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

Q Please state your name? A Mrs. Lillian Daunhauer.

Q What is your position?

A Bookkeeper at Edwards Motor Co.

Q What address? A 4638 Carrollton Ave.

Q I show you a document there, and I ask you first whether you, as the bookkeeper of the Edwards Motor Co., had an account with one John McGovern?

A Yes, we had one.

Q Now, I show you that sheet and ask you if you know what

it is? (Counsel hands witness document and witness examines same) A That is the account.

Q That is the account with whom? A John McGovern.

Q And when does it begin?

A It began September 18, 1930.

Q And it closed when? A March 31, 1931.

Q And how is it closed, by what kind of an entry?

A Journal entry.

Q Now I show you this sheet and ask you what that is?

(Counsel hands witness document and witness examines same) A Journal sheet.

Q Now I ask you to look on the ledger sheet of McGregor and see whether there is any reference there to an entry on the journal?

MR. GEX: You mean McGovern?

MR. WOODCOCK: Yes, that is correct.

MR. SLADE:

Donot point it out to her, Colonel. Let the lady do it yourself.

MR. WOODCOCK:

I am going to point out the journal number.

THE COURT: I will let him point it out to her.

BY MR. WOODCOCK:

Q What does that 531 there indicate?

A That is the page number of the journal sheet.

Q And what is this journal sheet I show you? A 531.

Q Now what does that reference there mean, that 531?

A It means that this amount is posted from the journal sheet.

Q The record here is posted from the journal sheet?

OBJECTION: MR. SLADE:

I object to this repetition. The witness testified to that.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Where on the journal sheet is the item which appears on the ledger sheet of John McGregor?

A (Witness indicating)

Q Any place else?

A (Witness indicating)

Q Just tell the jury how -

MR. GRACE:

May I interrupt a second. I think he is confusing the names McGovern and McGregor.

MR. WOODCOCK:

The name is McGovern, the same name that appears on that application for 40-016.

Q Is the account closed there on the ledger?

A Yes sir, it is closed.

Q And how was it closed?

A It is closed by the journal entry which closed it.
"Charge loss on bad accounts 50¢, and credit John McGovern 50¢."

Q Is that all that account shows?

A "To adjust error in invoice 4066. O. K., J. C. Mazurette."

Q Is that all it shows; what about the transfer there of \$1.43?

A It is \$1.93.

Q And where was that transferred to?

A Transferred to M. D. O'Neal.

Q Now you are a bookkeeper and I am not. What you are saying there, does that mean that the balance in favor of McGovern was credited to M. D. O'Neal to close the account of McGovern?

A Yes sir.

Q And what was the amount which was transferred and credited?

A \$1.93.

Q And your journal shows that and your ledger shows it by reference to the journal?

A Yes sir.

Q You made these entries yourself?

A Yes sir.

Q Now may I ask why you transferred the credit balance in favor of John McGovern to M. D. O'Neal?

A Mr. Mazurette told me to close it out.

Q Well, do you know M. D. O'Neal?

A No sir.

Q You never heard of O'Neal; did he have an account with you?

A Yes sir.

Q You had heard of him to that extent? A Yes sir.

Q He had an account with you? A Yes sir.

Q And someone told you to transfer McGovern's credit balance over to O'Neal?

OBJECTION: MR. WALLACE: We object to what someone told her.

THE COURT: Sustain the objection as to that.

BY MR. WOODCOCK:

Q I will ask you again why you made that credit from McGovern over to M. D. O'Neal?

OBJECTION: MR. WALLACE:

We renew the objection to the question.

THE COURT:

Unless the bookkeeper can remember the instructions, I think it is up to the jury, from their intelligence to know some instructions must have been given the bookkeeper to that extent.

BY MR. WOODCOCK:

Q I show you a bill; that is a bill of your company for the sale of what automobile? (Counsel hands witness document and witness examines same)

A This is a repair bill.

Q For what automobile?

A They haven't got what kind of car; has the motor number.

Q What is the motor number there? A AA3862088.

Q Well now, is that amount there of \$23.07 charged on the

ledger sheet of John McGovern?

A Yes sir.

Q Where is that charge?

A Right there.

Q So this sheet has the charges for repairs?

A Yes.

Q I show you a bill; is that on your bill head?

A Yes sir.

Q What is the amount of that charge there? A \$1138.09.

Q What is the date of that?

A September 19, 1930.

Q Now does that appear as a debit against John McGovern?

OBJECTION: MR. WALLACE:

We object. The document will speak for itself, whether it is a debit or credit against John McGovern.

THE COURT:

I think the proper way would be to let the bookkeeper identify the document.

BY MR. WOODCOCK:

Q What is this document here? (Indicating)

A That is a bill of sale for a truck.

Q And what is the motor number of the truck put down there?

A AA3862088.

Q Well, that is a bill to McGovern for what kind of a truck?

A Model-A, 1931.

Q What make?

A Ford.

Q With the motor number you just gave? A Yes sir.

Q And the date is what? A September 19, 1930.

Q And is there on your ledger an entry on that date, a debit?

OBJECTION: MR. WALLACE: We object.

OFFER: MR. WOODCOCK:

Well, that speaks for itself. I offer this document in evidence. I think the Court will permit me to state that this is the car which has the license No. 40-016.

THE COURT: You may state it has the same motor number.

MR. SLADE Just a preliminary question or two.

Q You have no personal recollection of that paper that you just testified from, have you?

A I don't understand.

Q Let me see if I can make myself clear. How long have you worked in this place? A Eleven years.

MR. WOODCOCK:

Will you permit me to interrupt you just a minute. I did not quite finish my examination.

Q I show you this sheet here and ask you what that sheet is? (Counsel hands witness document and witness examines same) A Ledger sheet of M. D. O'Neal.

Q You kept that too, did you? A Yes sir.

Q Now in your journal you pointed out a transfer under what date? A March 31, 1931.

Q And the entry is M. D. O'Neal, isn't it?

A Yes sir.

Q Is there any reference on your ledger to this journal?

A Yes sir, it is on here.

Q \$1.93?

A Yes sir.

Q That appears in M. D. O'Neal's account?

A Yes sir.

OFFER: MR. WOODCOCK:

I want to offer in evidence the journal sheet which will be G-53, the ledger sheet of John McGovern, G-54, and the ledger sheet of M. D. O'Neal, G-55, the bill of the Edwards Motor Co. for a Ford truck with motor No.

AA3862088, a bill against John McGovern, G-56.

MR. GEX:

Will Your Honor let us ask one question before we object?

THE COURT: Yes.

BY MR. GEX:

Q What is your name?

A Mrs. Smith. It was Mrs. Daunhauer -

Q That doesn't make any difference. You stated you transferred from the McGovern account to the O'Neal account, or vice versa?

A Yes.

Q You said somebody told you to do that, Mr. Mazurette, employed by the Edwards Motor Co.?

A Yes sir.

THE COURT:

I will exclude the statement that someone requested her to do it. He has offered the entries and I will let

them go to the jury.

MR. SLADE:

On cross examination we have the right to ask the question -

MR. WALLACE:

If Counsel wishes to inquire into it, I will ask leave to withdraw the objection. If Senior Counsel wishes to -

THE COURT:

You objected to it on the ground it was hearsay evidence, and now on cross examination you want to bring it out.

MR. WALLACE:

I did make the objection sincerely. If Senior Counsel wishes to inquire into it, I do not care to obstruct him.

THE COURT:

I sustain the objection. The entries will go before the jury.

MR. GEX:

You sustain the objection, and the sheets go to the jury.

THE COURT:

The sheets are in and the entries on the sheets.

MR. SLADE:

I am not bound by the objection made. I represent another defendant. I did not have any objection.

THE COURT:

I have ruled, gentlemen. You may have an exception.

MR. SLADE: Exception.

BY MR. GEX:

Q Will you tell me what date that entry was made?

A March 31, 1931.

Q Did you make this bill, this bill that you were interrogated about, to John McGovern?

A That is a copy of it.

Q Did you make out the bill?

A Yes, I make them out from a blue slip.

Q Somebody else gives you a blue slip and you make them out?

A Yes sir.

Q And this first bill you made out to John McGovern for some goods purchased?

A That is a copy that the government man asked for.

Q This is not an original bill, is it?

A No sir.

OBJECTION: MR. GEX:

We ask that be excluded, because it is a copy and not the original .

THE COURT: I will exclude the copy. Let it go out.

MR. O'NEAL:

I did not understand whether Your Honor refused to let us go into the question of where the witness got her authority to transfer this account.

THE COURT:

Defendants' Counsel, one of them, without any objection on the part of any other defendants' Counsel, asked that that be excluded, and it was excluded on the request of one of the Counsel for the defendants in the presence of all the others without objection.

MR. O'NEAL:

Do I understand the Court later refused to allow another Counsel to go into the question?

THE COURT: Yes.

MR. O'NEAL: Exception.

THE COURT:

When any Counsel for defendants make objection that the other Counsel wants to have a ruling adverse to that objection, they should let it be known at the time.

MR. SLADE:

I do not want to argue the question, but I would like to state my objection.

THE COURT: I have ruled on it.

MR. WOODCOCK:

Q The entry on McGovern's account until September 19th has a debit of what? A \$1127.65.

Q And what does the number 4490 mean?

A That is the invoice number.

Q Of the merchandise that was sold there?

A Yes sir.

Q Was the invoice a thing like this? (Indicating)

A No sir.

Q Isn't that the invoice number right there? (Indicating)

MR. SLADE:

Your Honor excluded that copy. I move all the testimony given by this young lady relative to that be stricken out.

MR. WOODCOCK:

I will ask the witness to bring up her original invoices which correspond to this debit entry.

Q Will you make a little note of that?

A Mr. Talbot hasn't got that bill?

Q I don't think so. You take a look and see.

A (Witness does as requested) I have the third copy. We made two copies.

Q You bring your records of what you have, with the Court's permission, of those two entries, Nos. 4490 and 4491?

A Yes sir.

Q You want to write it down? .A I know it.

- - - - -

FRANK PAUL: Witness, being duly sworn and examined on behalf of the government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Frank Paul.

Q What is your official position now?

A I am stationed at Base 21, at St. Petersburg, Fla.

Q What department of the government?

A U. S. Coast Guard.

Q What was your occupation during the fall of 1930 and the winter of 1931?

A I was in charge of the Walcott, Division 8, Biloxi, Miss.

Q What kind of a boat is the Walcott?

A A hundred footer.

Q What duties were you engaged in at that time?

A Engaged in preventing smuggling.

Q Will you turn to your record and say whether around March 25th you had cutterized a ship call the Concord? Explain the record and explain what you mean by cutterized? I may say to the Court so the Court will understand the relevancy of this, this ship was referred to in the message Government X-6, the latitude and longitude having been given in the code, and the purpose of the testimony of this witness is to show

that about that time he found this vessel in that latitude and longitude, or approximately that.

MR. GRACE:

Q May I ask the witness from what he is testifying, what he is looking at?

A Official log of the vessel.

OBJECTION: MR. GRACE:

I object to the use of the log for his benefit. The official log is only used against the party, not for him.

THE COURT:

I understand he is simply using that to refresh his memory. Overrule the objection.

MR. GRACE: I except.

BY MR. WOODCOCK:

Q Will you state what you did?

A I picked the Concord up at seven o'clock.

Q What date?

A On April 7, 1931, and she was drifting in latitude 29.51, 87.44.

MR. WOODCOCK:

Perhaps it would help the Court to explain that that is the exact latitude^{of} the message translated.

OBJECTION: MR. SLADE:

I object to Counsel making a speech before the jury.

MR. WOODCOCK: The jury heard it.

THE COURT: Overruled.

MR. SLADE: Exception.

MR WOODCOCK:

The translation of that message X-6 was: "Substitute
- 50 Canadian Club balance Blue Grass for Corozal Stop
Ready Tuesday Wire Concord go to latitude 29.50 longi-
tude 87.44."

Q You say on April what?

A April 7, 1931, latitude 29.51, longitude 87.44.

Q How far away in miles was 29.51, and longitude being
the same, would it be from latitude 29.50?

A Just exactly one mile.

Q You say the ship was drifting?

A Drifting, yes.

Q Did you make any other observation of her?

A I approached her close to. I spoke to the vessel and
she got underway at 7:15. I spoke to her about 15
minutes. I had him raise his flag to show his nation-
ality and then he got underway.

Q What flag was it?

A Flying the British Honduras.

Q Does Honduras have a flag - oh, British Honduras,
British flag? A Yes.

Q But the port of call was Belize?

A Yes sir.

Q That is all you know about the ship?

A Yes sir.

Q What kind of a ship was she?

A Sloop, one mast.

Q Any power? A Yes sir.

Q What power, what kind of power?

A I can't say what power.

Q You could tell whether steam or motor?

A Oh, yes, motor power.

Q Now, will you turn to your records about April 5,
that is the same date you gave for the Concord?

A April 7th.

MR. WOODCOCK:

May I read the translation of message X-20 of April 5?

MR. SLADE:

Don't you think we ought to have the testimony, have
the witness' testimony about these things.

MR. WOODCOCK:

He just gave his testimony, the two messages referring
to the same testimony.

THE COURT:

I think he ought to give his testimony first.

MR. WOODCOCK:

I did not know he had any more testimony to give.

Q Have you another message about that time, April 5th or 7th?

A No sir. I trailed her all day of the 7th.

Q That is the only entry that you have?

A I will make sure. (Witness refers to document) Yes, that is all.

MR. WOODCOCK:

May I read the message of April 5th which also refers to this vessel, the same message which was admitted in evidence?

THE COURT:

I think the proper time would be when you argued the case. I will sustain the objection as to that.

BY MR. WOODCOCK:

Q How long did you trail this vessel?

A I trailed her until April 8th at eight o'clock, and I turned her over to the Dexter ^{latitude} 27.37 longitude 87.05. I was relieved at that time.

Q Did you cutterize a ship about April 8th?

A (Witness referring to document) Which year, Sir?

Q 1931? A In 1931, yes.

Q And what ship did you see that day?

A On that day I passed the Dallas. She was trailing a boat, name unknown.

Q What was the Dallas?

A The Dallas was the same type of vessel as the Walcott.

Q Could you see the boat the Dallas was trailing?

A Yes sir.

Q Do you know what her name was?

A No. I may have known at that time, but I did not log it.

Q Anything distinctive about the vessel which you recall now?

A No sir.

Q What do you mean by cutterized? A Trailing.

CROSS EXAMINATION:

BY MR. GRACE:

Q Did you make those entries yourself?

A Yes sir.

Q Did you take the positions? A Yes sir.

Q Have you got any license to navigate?

A I do not require any license. I am qualified as a navigator.

Q What do you mean by qualified as a navigator?

A Anything pertaining to navigation.

Q What qualifications have you as a navigator?

A Because I am a boatswain. I passed the examination.

Q What examination did you pass?

A On sights, on compasses.

Q What sights? A Any kind.

Q Name some of the examinations you passed on sight?

OBJECTION: MR. WOODCOCK: I object.

MR. GRACE:

I think we are entitled to go into the qualifications of the navigator, as to the exact positions -

MR. WOODCOCK:

I believe I am entitled to state my objection.

THE COURT:

Overruled. I will let you ask him.

BY MR. GRACE:

Q What examinations have you passed?

A Numerous examinations.

Q Name some with respect to taking positions of the vessels at sea?

A The first thing, if the vessel is in shallow water, take the soundings. If we are unable to take soundings, we try for radio compass bearings, and if we obtain radio compass bearing that gives us one line. We know we are somewhere on that line. At the time we take the radio compass bearing we determine the latitude of the Sun, and through percolation we get another line, and where the two lines intersect that is the position, and that position is accurate within three miles.

Q Then your position on the record is within three miles?

A It is within three miles.

Q It is not definite?

A That is, it is no more than three miles.

Q But it is not definite?

A Yes, it is definite within three miles.

Q Within three miles? A Yes.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q That would be a variation of three miles in the reading?

A Yes sir.

Q That is the possible error in that kind of navigation?

A Yes sir.

BY MR. SLADE:

Q The position of this vessel was how many miles away from the coast of the United States?

A I do not recall.

Q Approximately? A About twenty miles.

Q At least twenty miles?

A I say approximately twenty miles.

- - - - -

A. W. POWELL: Witness, being duly sworn and examined on behalf of the government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A A. W. Powell.

Q What is your position in the government?

A Boatswain of the U. S. Coast Guard.

Q What was your command during the Spring of 1931?

A My command was Coast Guard Cutter Dexter.

Q Will you state whether or not during the latter part of March you cutterized a ship called the Concord?

A It will be necessary for me to refer to my record.

Q I think you can refer to your record kept at the time?

OBJECTION: MR. GRACE:

I would like to make the same objection to the witness testifying from the log. I would like to ask the question if it is the log used on the vessel?

A It is.

OBJECTION: MR. GRACE:

I want to make the same objection to any testimony given from the log based upon the fact that it is a selfserving declaration, incompetent, irrelevant and immaterial.

THE COURT: Overruled?

MR. GRACE: We reserve a bill.

BY MR. WOODCOCK:

Q Turn to your record of April 8th. That will guide you?

A (Witness does as requested) Yes, I did.

Q What is your recollection of what you saw at that time. You can refresh your recollection from your notes?

MR. WALLACE:

The question was first the latter part of March and

now he asks about April 8th. May I ask the date of the inquiry now?

MR. WOODCOCK: He just said it, April 8th.

A (Witness referring to document) My record shows -

MR. SLADE: Not what your record shows.

THE COURT:

Not what the record shows. You can read the record to yourself and refresh your recollection, and if it does refresh your recollection testify afterwards. Read it over to yourself.

A (Witness does as requested) At 8:10 A. M. on April 8th the Dexter relieved the Walcott trailing the Concord.

BY MR. WOODCOCK:

Q What latitude and longitude was the Concord in at that time?

A The latitude was 27 degrees 39 minutes north. The longitude was 87 degrees 10 minutes west.

Q Will you look at that latitude again and see if you have given it correctly, 29 or 39 minutes?

A The latitude is 27 degrees and 39 minutes.

Q All right. Now, will you refer to your entry of March 12 - perhaps it would be simpler to take April 11th next. You have that one open there?

A (Witness refers to document)

Q Did you cutterize any vessel that date?

A The Dexter cutterized the vessel H. S. Albert.

Q Where was the Albert?

A 28 degrees 27 minutes north, 87 degrees 53 minutes west.

Q What do you mean by cutterize, Mr. Boatswain?

A That is a term which has recently been used by the Coast Guard to mean picketing or trailing, or observing.

Q What kind of vessel did you observe this Albert to be?
I do not want a minute description, but was she an ocean going liner or ferry boat?

A She was a typical Gulf rum runner.

OBJECTION: MR. SLADE:

I ask that be stricken out.

THE COURT: I will permit the witness to testify.

Q You have had considerable experience in the Gulf Coast Service?

A Considerable, yes sir.

Q Apprehended, and been in contact with types of vessels that are engaged in rum running?

A I have for the past nine years.

Q And you can state to the jury this was the same type of vessel?

A This was the same type of vessel.

MR. WOODCOCK:

I understand he is competent as an expert.

Q What do you mean, what do they look like?

A Their acts more than anything else, as well as the

appearance of the vessel. They are very, very poorly kept, not kept in shipshape manner, and they seem to have no definite object as to proceeding to any particular point after they are picked up by the Coast Guard. In trailing them on various courses, they change their course frequently.

MR. SLADE: May I have an exception?

THE COURT: Yes.

Q Now, will you turn to your entry of March 12th and state whether you cutterized any one of these boats on that date?

A (Witness refers to document) On March 12, 1931, the Dexter cutterized the Rosita.

Q What latitude and longitude?

A The latitude was 29 degrees 41 minutes north. Longitude 87 degrees 45 minutes west.

Q What would you say as to the character of the Rosita from your experience?

OBJECTION: MR. SLADE:

Same objection. I assume the same ruling, Your Honor.

THE COURT: Overruled.

MR. SLADE: I take an exception.

BY THE COURT:

Q Did it have the same distinctive characteristics that the other rum runners have that you have testified to?

A Yes sir, except that it was a much better kept vessel.

MR. GEX:

One of the qualifications of a rum runner was not being well kept.

THE COURT:

His answer was that it had the same characteristics.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Was the Rosita taking some course that would lead her to any place?

MR. SLADE: Do not ask leading questions.

BY MR. WOODCOCK:

Q What course was the Rosita steering when you followed her? A (No answer)

Q I do not mean the compass bearing. Did she continue or not continue on one course?

A She continued on one course from the time she was picked up throughout the remainder of that day.

Q Was there any change in course?

THE COURT:

Is this the same date, and latitude and longitude referred to in some of those decoded messages?

MR. WOODCOCK: Yes, Your Honor.

A Repeat that question, please?

MR. WOODCOCK:

I withdraw the question, and I am willing, in view of his latter answer, as to the description of her as a

rumrunner be stricken out.

THE COURT: All right.

MR. GEX: It has had its effect.

THE COURT:

It will not go out as to the lattitude and longitude, but as to it being a rumrunner, having characteristics of a rumrunner. That of course, goes out, gentlemen.

MR. SLADE:

You want to assume now that the lattitude and longitude being the same that the defendant -

THE COURT:

You have the witness' testimony and the messages and it is for the jury to say whether at that particular time it was engaged in the transporting of rum.

MR. SLADE: I object and reserve a bill.

BY MR. WOODCOCK:

Q Can you tell the Court and the jury about what part of the world lattitude 29.41 and longitude 87.45 is? Is it in the Atlantic Ocean or ~~Arctic~~ Arctic Ocean, or the Gulf of Mexico?

A It is in the Gulf of Mexico eastward of Chandelier Island.

Q That is east of the mouth of the Mississippi River, is it?

MR. SLADE:

I do not think that is fair; the witness is supposed to be an expert.

THE COURT: He is trying to locate it. Overruled.

MR. SLADE:

I think the witness ought to be able to tell.

THE COURT: Maybe the witness can tell.

A No, that would not be eastward of the mouth of the Mississippi River.

MR. WALLACE:

Geographic and aeronautic locations within the United States are judicial notice to the Court, and instead of leading the witness to some specific point, lead him geographically or aeronautically to the degree of latitude and longitude.

THE COURT:

Frankly, the Court is unable to see where that makes any difference.

MR. WOODCOCK:

The question is just a general one to show the location.

Q It was in the Gulf of Mexico?

A It was in the Gulf of Mexico.

Q Did you see on February 22nd and cutterize any ship?

A On February 22, 1931, the Dexter cutterized the Concord.

Q Where was she?

A Latitude 28 degrees 37 minutes north and longitude 91

degrees 51 minutes west.

Q How long did you stay that way? A (No answer)

Q If you do not know we will pass it?

A Approximately 2-1/2 days.

Q Did she steer the same course all the time?

A She did not.

OBJECTION: MR. GEX:

What difference does that make. We object to that as being irrelevant and immaterial.

THE COURT:

If the decoded messages mean anything, it is bound to mean some connection between these ships transporting the rum, and if the latitude and longitude are the same as in the message, it seems to me that is all they have to show..

CROSS EXAMINATION:

BY MR. SLADE:

Q Will you show me that entry from which you just refreshed your recollection?

MR. WOODCOCK: Surely.

Q Open it up and we will both look at it?

A That is where it starts. (Indicating)

BY MR. SLADE:

Q Mr. Witness, are the entries in that log book in your own handwriting; yes or no please?

A I can't answer yes or no. Part of them are and some not.

Q And some of the testimony you have given here this morning in answer to the District Attorney's questions, was upon entries made by somebody else?

A Absolutely.

Q Not your personal observations, but entries which were obtained and recorded in the book by somebody else?

A Some in my writing and some under my observation and others not.

Q Which is in the handwriting of somebody else and which you attempt at the present time to refresh your recollection from. Tell me what part of that book you testified to from information given you by somebody else?

BY THE COURT:

Q That is the log kept on the vessel?

A I approved the log as it was kept each day.

BY MR. WOODCOCK:

Q Your name is at the bottom of the page? A Yes.

BY MR. SLADE:

Q You assumed what somebody else gave you to be correct and you signed it?

A I am responsible to see that it is correct, and -

Q If you are not there ^{do} and not make the observations yourself, you have to rely upon your subordinates. Am I right in that respect?

A That might be partially so, but the government of the United States -

Q I am not asking you about the government of the United States -

MR. WOODCOCK: Let him finish his answer. You are not asking the witness one question. You are asking him one right after the other. Let the witness have an opportunity to answer one question at a time. Read the question?

(Question read)

THE COURT: Answer the question.

A To a certain extent we depend upon the record of some subordinate, but we have means of checking one subordinate by another subordinate. Each man leaving the watch is supposed to check over the entries of the previous man, and if there is any discrepancy it must be reported to me.

Q That is if one subordinate finds a discrepancy by the other subordinate, but so far as you are concerned you sign that. You base your signature upon what someone else tells you?

A No, they don't tell me that; they put it in the log.

Q I am referring to the entries in the log. The entries they make in that log you approve, though you do not see them?

A I am on deck a considerable part of the time when we cutterize.

Q A part of the time you are not there? A No sir.

Q And those times you do not make the observations yourself?

A I may make the observations myself, but not -

Q Then the record in your log -

THE COURT:

If the government desires, I will permit the log to go in with the entries regarding these ships. The witness has testified this log was kept on that vessel showing location at that time?

MR. WOODCOCK: Yes, Your Honor.

MR. GRACE:

Let the record show the whole testimony is based upon the log kept on his own vessel.

THE COURT:

No. As I understood this witness and the preceding witness, they refreshed their recollection from reading the log, and testified from their recollection so refreshed. If you gentlemen are not satisfied that way, I will let the log go in.

MR. SLADE: It is not a question of being dissatisfied.

THE COURT: You may have an exception.

MR. SLADE:

Have I not the right to disclose the fact whether it is based upon his own knowledge or knowledge of somebody else?

THE COURT:

The location in this log may go to the jury.

MR. SLADE: Exception.

BY MR. SLADE:

Q What flag was the Rosita flying? A I do not recall.

Q How far was it from shore?

A That could only be determined by following it, position measured off; I don't know.

Q At the time you observed it?

A I don't know, but that can be easily shown.

Q What? A I don't know how far it was.

Q Wasn't she more than 20 miles from shore?

A The Rosita?

Q I imagine your log would show the flag that she flies?

A Very probably not. Very often they do not fly any flag.

OBJECTION: MR. SLADE:

I ask that be stricken out; "very often they do not."

The question is what they did in this case.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Did you speak to this vessel, do you recall?

A I do not recall that I did.

Q Now on one of the charts that we have, it is quite possible to plot the position of that ship and measure

the distance from shore?

A Yes.

Q Anybody can do that?

A Yes.

BY MR. SLADE:

Q You have not answered my question. I have a question that you have not answered. How many miles was the Rosita from shore when you observed her?

A I don't know and I have no record to show it.

Q Don't you know approximately?

A Yes.

OBJECTION: MR. WOODCOCK:

I object to his answering approximately. It is not relevant.

THE COURT: I will let him answer for what it is worth.

MR. SLADE: Exception.

THE COURT: What difference does it make, if 500 or 2,000.

MR. SLADE: A very great difference.

THE COURT:

Your conception of the law is not in accordance with the Court. It is shown here within the jurisdiction of this Court.

MR. SLADE:

The purpose was not to violate the law, but to avoid delivering this within the jurisdiction of the United States.

MR. WOODCOCK:

On behalf of which defendant do you make that statement.

This Counsel makes a statement on behalf of some defendant. I am entitled to know who that is and the purpose of it.

THE COURT: I think so.

MR. SLADE: The purpose of the defendant is to show -

MR. WOODCOCK: What defendant?

MR. SLADE:

Morrison. His purpose was to show he was not violating the law at all, if he had anything to do with it. He is not connected with the case yet. There has been no conspiracy here as yet shown in any shape or form.

THE COURT:

If you state as Counsel, you expect to show on behalf of the defendant Morrison that these radio messages were being sent at his instance to avoid liquor coming into the United States, I will permit you to cross examine -

MR. SLADE:

All I want to know is that these vessels never got within the jurisdiction of the United States.

THE COURT:

That is not the issue here. The issue here is if any of these defendants were connected with these messages that were being transmitted, the connection of the defendants with the messages; that is vital here. You state that

is the line of defense that you wish to set up as to one of the defendants, and I will permit you to cross examine the witness on that line. Let Counsel proceed.

MR. GEX:

On account of Mr. Morrison, we announce we are not connected with that at this time.

MR. SLADE:

In view of Your Honor admitting these log books, I ask that all the evidence given by this witness, refreshing his recollection, be stricken out.

THE COURT:

Oh no. I am not striking the testimony that the witness gave on his refreshed recollection.

MR. SLADE:

If the books are in evidence, that is the best evidence. Your Honor permitted that upon the theory you excluded the books. Now you admit the books. We are not bound by both.

THE COURT:

I will leave it to you to elect which one you refer to. You were objecting to the witness refreshing his recollection from the book.

MR. SLADE: I understand Your Honor to rule -

MR. WOODCOCK:

The Court said if the government requested it. I may

state the book is complicated, and the testimony is perfectly competent as given, to refresh his memory.

THE COURT:

If you object to the books going in they will not go in.

MR. SLADE: We object.

THE COURT: All right. Sustained.

MR. SLADE:

I ask that all that testimony be excluded on the grounds urged by myself as to any part of the testimony given by this witness.

THE COURT: Overruled.

MR. SLADE: Exception.

MR. GRACE: And all the other grounds too that we urged.

THE COURT: All right.

- - - - -

R. S. MILLER: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A R. S. Miller.

Q Mr. Miller, what is your position in the service?

A Boatswain, United States Coast Guard.

Q What were you doing in the spring of 1931?

A I was officer in charge of the patrol boat Dallas.

Q What kind of boat is she?

A 100 foot patrol boat.

Q Where was she operating? A In the Gulf of Mexico.

Q Will you state whether or not around April 8th, you cutterized or observed a ship, and if so, what ship?

A Yes sir, I cutterized the Ouiatchouan.

Q What was her latitude and longitude?

THE COURT:

Is that one of the vessels referred to in the code messages?

MR. WOODCOCK: I do not think it is, Your Honor.

THE COURT:

If not, I do not think it proper to go in here.

MR. WOODCOCK: May I read what the code says?

MR. GEX: No.

THE COURT: Overruled.

MR. HOLLINS: You can show it to the Judge..

THE COURT: The Court will ask that the message be read.

MR. WOODCOCK:

"Will go position six. Fishermen there. Cutter following."

MR. SLADE:

"Fishermen" you know was not translated or deciphered, and the record, so shows.

THE COURT: What is the date of that message?

MR. WOODCOCK: That was on April 8th.

THE COURT:

Q If you cutterized a vessel on that date, you can give the latitude and longitude?

THE COURT: You may have an exception.

A Latitude 29.23 north; longitude 88.28 west. Located here at 4:45 on April 8, 1931, and trailed her for 357-1/2 miles, and left her at latitude 23:41 west; 87;28 west at 6:45 on April 10, 1931.

Q How long have you been in the Coast Guard service?

A Twenty-seven years.

Q You had considerable experience in cutterizing rum boats?

A Yes sir, 22 in the last three years.

Q They have certain general distinctive characteristics about the ships?

A Yes sir.

Q Was, in your judgment, this ship you cutterized on that occasion, a rum ship?

OBJECTION: MR. GEX:

We except to the Court's questions, especially the last one, because it is opinion.

THE COURT: Overruled.

MR. GEX: We except.

MR. SLADE:

And may it be shown the witness is reading from a record?

BY THE COURT:

Q That is the log of your vessel?

A I have got the log, and another sheet here I made out.

BY MR. WOODCOCK;

Q You have some recollection of this matter -

A I recollect the case very well, except I had to look up the date.

BY THE COURT:

Q You remember the incident? A Yes sir.

Q How long did you stay with that vessel that day?

A I stayed with her the remainder of that day.

Q Did you cutterize any other ship on that day?

A No sir.

Q When did you leave her?

A I left her at 6:45 on April 10th.

MR. WOODCOCK:

I ask that question because there is another message on the same day referring, I think, to the same thing.

BY MR. WALLACE:

Q 6:45 A. M. or P. M.? A P. M.

MR. GRACE:

We want the record to show he is reading from the log book entries at this time, refreshing his memory from the log book.

THE COURT:

The witness stated he had an independent recollection of the matter, and only refreshed his memory as to dates.

MR. GRACE:

I take it also as to the position of the vessel he is taking that from the log.

BY THE COURT:

Q You refreshed your recollection from the log?

A Yes sir. We have so many.

Q That is the log of the vessel you were on?

A Yes sir.

OBJECTION: MR. GRACE:

We renew our objection and ask all this testimony be stricken out.

THE COURT: Overruled.

MR. GRACE: Exception.

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W. S. HART: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A W. S. Hart.

Q Are you in the Coast Guard? A Yes sir.

Q Boatswain? A Yes sir.

Q Were you operating in the Gulf of Mexico in the Spring of 1931? A Yes sir.

Q Will you state whether around April 8th you cutterized any ship? A Without looking at the log?

Q Can you refresh your memory from your log about that

time, and see whether you cutterized any ship?

OBJECTION: MR. GRACE:

We object to the words: "refresh your memory."

BY THE COURT:

Q That is the log of your vessel? A Yes sir.

OBJECTION: MR. GRACE:

We object to the words "refresh your memory", and we would like to ask the witness right now can he state any positions of vessels set forth in the log without looking in the log?

THE COURT: Answer if you can.

BY MR. GRACE:

Q Can you state the different positions of vessels set forth in the log, give them to me right now without looking at the log?

OBJECTION: MR. WOODCOCK:

I object. That is asking a perfectly impossible question.

THE COURT: I think that is very apparent.

Q You cannot offhand, without refreshing your recollection from the log, give the location of any vessels at any time?

A I would be a mind reader if I could.

MR. GRACE: That is what we want to show.

A Not in April, no sir.

Q Not in April at all?

A We had a trail in March of -

OBJECTION: MR. SLADE:

I ask that be stricken out. The question was in April.

THE COURT: He said he didn't have any in April.

MR. SLADE:

He answered the question. Now he is telling us about something else.

THE COURT:

Let him tell that. I will give you an exception.

MR. SLADE: Exception.

A (Witness continuing) In March 1930 we had the trail of a vessel -

Q 1930 or 1931?

A 1930.

Q I did not ask for that.

THE COURT:

Gentlemen, in order to accomodate one of the Counsel in this case in another matter, the Court will take a recess until four o'clock. Be back in the Court room promptly at four o'clock. All other parties are excused until four o'clock.

Adjourned until 4:00 P. M.

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AFTER RECESS: 4:00 P. M.

L. P. ADAMS: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A L. P Adams.

Q Mr. Adams, what is your official position?

A Manager for the Southern Bell Telephone Co. here.

Q In your capacity as Manager, do you have charge of the applications or telephone service, and of the records concerning that service? A Yes sir.

Q And you have brought certain records here in reply to the subpoena? A I have.

Q I show you this card and ask you what that is? (Counsel hands witness card and witness examines same)

A Application for telephone service under the name of M. Ryder, 3327 Canal St.

Q And what telephone is it?

A Service under Galvez 6959.

Q You do not know who Ryder is? A I do not.

Q What is the pink slip down there attached to it?

A Merely a memorandum of the disconnecting order made in our office in all cases where telephone service is disconnected.

OFFER: MR. WOODCOCK:

Subject to proof this was Morrison's telephone at the time shown, at 3327 Canal St., I offer this in evidence as G-57.

OBJECTION: MR. SLADE:

Unless the foundation is laid for it, and some connection at this time, we object to it as incompetent and not binding.

THE COURT: You expect to show -

MR. WOODCOCK:

I expect to show by the next witness that was Mr. Morrison's telephone. I think this testimony is already in by the witness Andres, that he called Mr. Morrison at this place, and talked to him and knew he was the man under the name of Burk. I am quite sure Mr. Andres so testified.

THE COURT:

That would not establish the fact he was the owner of the telephone and talked at his own telephone.

OFFER: MR. WOODCOCK:

I offer to show it was and will mark it for identification.

THE COURT:

Let it be marked for identification for the present.

BY MR. WOODCOCK:

Q I show you another card and ask you what that is? (Counsel hands witness card and witness examines same)

A This was a telephone under the name of L. Brill at 4509 So. Derbigny St. Uptown 7921.

Q And the pink slip?

A Disconnecting memorandum we use.

MR. WOODCOCK:

At the same time I offer this, and will show it is the telephone of the defendant Nate Goldberg, and I ask that it be marked for identification G-58.

Q I show you this - (Counsel hands witness document and witness examines same)

A This is service under the name of Mrs. M. L. O'Neal.

Q How is the application signed?

A Mrs. M. L. O'Neal by J. L. O'Neal.

Q And what is the address?

A The service here was first at 2924 South Carrollton Ave. and later 1937 Napoleon Ave.

Q Under the same card? A Under the same card, yes.

Q That is still in existence? A Yes sir.

OFFER: MR. WOODCOCK:

I offer this in evidence as against the witness, J. L. O'Neal. I don't believe we need any more identification. His name is on it.

MR. GEX:

You do not mean the witness, you mean the defendant, don't you?

MR. WOODCOCK: That is true.

MR. SLADE:

It is obvious from this card that the telephone is in the name of Mrs. O'Neal, and Mr. O'Neal is merely a reference.

MR. WOODCOCK:

The card shows it is signed by J. L. O'Neal, and the reference over on the other page is to J. L. O'Neal -

MR. SLADE: DeSoto Hotel.

MR. WOODCOCK: Telephone I assume in the mother's name.

THE COURT: The application is signed by Mrs. O'Neal?

MR. WOODCOCK: Yes, Your Honor, by J. L. O'Neal.

THE COURT: Overruled.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q This one? (Counsel hands witness document and witness examines same)

A Application for telephone by P. Tuminello, nonpublished telephone at 1423 No. Galvez, Franklin-3045.

Q You said something about it being -

A Nonpublished telephone.

Q What do you mean by that?

A Do not show it in our directory. If anyone attempted to get this telephone number we would not give it to them.

BY MR. SLADE:

Q That is not listed?

A No.

OFFER: MR. WOODCOCK: We offer this in evidence marked G-60.

OBJECTION: MR. SLADE:

Objected to insofar as any of the other defendants are concerned.

THE COURT:

It applies just to the defendant who signed that application for the present.

Q I ask you what that one is? (Counsel hands witness document and witness examines same)

A This was service furnished to a nonpublished number to M. Miller, apartment No. 1, 1448 Jackson Ave., the nonpublished number, Jackson 0224.

Q What is the address?

A Apartment #1, 1448 Jackson Ave.

Q What is the telephone number? A Jackson 0224.

OFFER: MR. WOODCOCK:

I offer that in evidence, subject to proof that that is the telephone of the defendant, Nate Goldberg, marked G-61.

MR. SLADE:

I think it ought to be marked for identification.

THE COURT: Let it be identified for the present.

BY MR. WOODCOCK:

Q I show you this one and ask you to state what that is? (Counsel hands witness document and witness examines same)

A This was a telephone in the name of Mrs. Ann Reid, 4509 So. Derbigny St., Uptown 5855.

OFFER: MR. WOODCOCK:

I offer that in evidence, subject to proof that it is also the telephone of the defendant Nate Goldberg.

THE COURT:

I think you should just identify it at this time, and made admissible later on.

BY MR. WOODCOCK:

Q Is this a nonpublished one?

A No sir, that was not a nonpublished telephone.

Q What is this slip here? (Indicating)

A That memorandum slip has no bearing on the service. It is a record we keep on disconnections.

Q Now I ask what that one is? (Counsel hands witness document and witness examines same)

A This was a telephone under the name of Clara Campbell, Apartment No. 1, 7530 St. Charles Ave., Walnut 3523.

Q When was it installed?

A The telephone was installed on January 9, 1931.

Q And when was it discontinued? A March 10, 1931.

MR. SLADE:

Wouldn't they prove themselves without all this. The witness is reading from the papers themselves.

THE COURT:

First, show they are the records of the telephone Company.

MR. SLADE: He is reading from the records.

THE COURT: None of that is before the jury.

MR. WOODCOCK: I will mark that for identification.

Q I show you a number of similar slips, and ask you to say what they are, not by reading each one, but what are they, as a general statement? (Counsel hands witness document and witness examines same)

A These are toll slips covering long distance calls to and from distant points.

Q From what cities? A Various towns and cities.

Q And all under your jurisdiction. Will you just run through them?

A No, because there are some here from Gulf Coast towns and other towns and places not under my jurisdiction.

Q Will you point out the ones you can identify as under your jurisdiction?

A Any of those from New Orleans.

MR. WOODCOCK:

If the Court please, I merely want the witness to identify these records. I may not offer all of them. I want to offer any that are relevant to the trial of this case.

BY THE COURT:

Q All of those records show long distance calls kept in

your office here?

A All of these tickets did not originate here, but they are all telephone records of long distance calls.

Q You are custodian of them now when forwarded to this office?

A Yes.

Q They show the places the calls originated?

A Yes sir,

Q The places being called?

A Yes sir.

THE COURT: That is sufficient identification.

MR. WOODCOCK: I will mark that G-63 for identification.

MR. SLADE: May we examine him on that point?

Q You have no knowledge of that fact except the records sent in?

A I have no knowledge except being the record of the Telephone Company covering long distance calls.

Q Now kept in your office under your custody?

A Some of those might not be under my custody, but they are the telephone company's records.

Q How did you come to bring them here?

A They were subpoenaed. They were brought here by the Telephone Company, because they were subpoenaed under various subpoenas from time to time, and we brought them under subpoena.

BY MR. GEX:

Q Those Gulf coast messages are kept at Gulfport?

A Not necessarily.

Q If I put in a call at Bay St. Louis from my phone to Chicago, that goes to Gulfport as part of the Gulfport records?

A Yes sir.

Q That is not under your supervision?

A Gulfport is not.

Q When a call originates from Bay St. Louis and the call charged to New Orleans, is that under your jurisdiction?

A Yes sir.

BY THE COURT:

Q You had a subpoena duces tecum served upon you?

A Yes sir.

Q And in response to that did you get up those tickets out of the office here in New Orleans?

A We had various subpoenas served on us for various of our records here and elsewhere, and we accumulated them and brought them here.

MR. SLADE: The subpoenas talk for themselves.

A (Witness continuing) We have those records sent from various places.

CROSS EXAMINATION:

BY MR. GEX:

Q Did you have a subpoena; do you know what that is?

A I do.

Q What is it? A I have one here in my pocket.

MR. WOODCOCK:

I do not except to the cross examination, but I do not think the witness should be questioned in that tone of voice. I don't think the witness should be insulted.

MR. GEX:

Certainly I have no intention of insulting anyone.

When I get ready to insult anybody it will be outside of the Court house where they can resent it.

Q Do you know whether these records were furnished under the subpoena duces tecum here?

A Yes. We furnish no records or information of any sort unless under due process of Court orders.

Q Then you sent to Gulfport to get these records when you got this subpoena? A Yes sir.

Q They were not under your custody or supervision until you sent for them? A No sir.

MR. WOODCOCK:

Does Counsel admit that is a subpoena duces tecum?

MR. GEX:

No, I do not. A subpoena duces tecum must come from the order of the Court.

MR. WOODCOCK:

I guess it is for the Court to decide whether it is a subpoena duces tecum. I think it is.

THE COURT:

That is not the question, whether this is a subpoena duces tecum. The question is whether the witness producing the papers was the custodian of these.

MR. GEX: That is the question now, yes Your Honor.

A As far as the other points, as I understand, we have to be served notice of that.

BY THE COURT:

Q What is your position with the Telephone Company?

A Manager.

Q Southern Bell of New Orleans? A Yes sir.

THE COURT:

I guess his testimony will have to be restricted to the records in his custody.

BY MR. WOODCOCK:

Q Will you point out which of these tickets have been under your custody; run through them?

A Any tickets marked "from New Orleans", I can run through.

Q I am willing that you identify those that are marked "From New Orleans".

THE COURT:

The ones marked "From New Orleans" are the only ones admissible.

MR. WOODCOCK:

The government is finished with Leon Fox. I think he is

entitled to be discharged unless the defendants indicate they wish he be retained here.

MR. SLADE: We ask that a subpoena issue for him.

MR. WOODCOCK:

I think they should properly issue a subpoena for him.

MR. SLADE:

I think we have to under the order of the Court. We ask for a subpoena to hold him here.

THE COURT:

You will have to ask the clerk. I will let him remain until you have time to do that.

MR. SLADE: We make the request now.

- - - - -

OFFER: MR. WOODCOCK:

I want to offer in evidence the minutes of the Court in case No. 16,053, of December 16, 1932, which shows that Leon Fox appeared in Court and plead guilty to the charges preferred in Indictment found against him and so ordered that his plea of guilty be recorded, and it appearing to the Court that said defendant has been imprisoned for a considerable length of time, it is ordered and adjudged by the Court by reason of his plea of guilty as aforesaid, that sentence be now imposed upon said defendant, so as to make his sentence be for a period of his confinement, and that said sentence do

expire today, and that said defendant be discharged without day in the premises.

MR. SLADE: That is the first Indictment.

MR. WALLACE:

The minutes of the Court by law, are always before the Court and we object to the introduction of that because it will encumber the record. The minutes are before the Court.

THE COURT: Overrule the objection.

MR. WALLACE: Exception.

MR. WOODCOCK: I am not offering the whole book.

- - - - -

MISS LILLIAN DANHAUER: RECALLED:

BY MR. WOODCOCK:

Q I asked you to bring the original of Invoice No. 4491, and that is it, is it? (Indicating)

A Yes sir.

Q 4491 is in red ink up there? A Yes sir.

Q And that is the invoice referred to in this ledger sheet of John McGovern for this charge here of September 19th?

A Yes sir.

Q Can you explain why your invoice is \$1138.09 whereas your entries are \$1127.65 and \$10.44; the sum total of those equal \$1138.09?

A Yes sir.

Q \$10.44 plus \$1127.65? A Yes sir.

BY MR. SLADE:

Q Did I understand you to say this is the original; this is not the original invoice, is it?

A We keep two copies, the second and third; that is the third copy.

Q It is not the original?

A We don't keep the first copy.

Q But the original you haven't at all? A No sir.

OBJECTION: MR. SLADE: We offer the same objection.

BY MR. WOODCOCK:

Q That is your record you retain? A Yes sir.

Q Which supports this charge here? A Yes sir.

BY THE COURT:

Q That is the only record you do keep? A Yes sir.

THE COURT: Overruled.

MR. SLADE: Exception.

MR. WOODCOCK:

Your custom here is not to show exhibits at this time to the jury?

THE COURT: You can if you wish.

OFFER: MR. SLADE: I offer that as G-64.

OBJECTION: MR. SLADE: I object to the offer.

THE COURT: Overruled.

MR. SLADE: Exception.

OFFER: MR. WOODCOCK:

Now, may it please the Court, I offer in connection with this automobile 40-016, testified to by the witness Williams this morning, the official registry of the automobile license for the city of New Orleans and State of Louisiana, for the period 1931. It is the big book here, or that part of it which records this particular license.

OBJECTION: MR. SLADE:

We object to that. That is merely a printed book, and not identified as the official book. It is just a record of some kind.

THE COURT:

Suppose you prove it up. There is an objection as to the character.

MR. WOODCOCK: Those books are always evidence in Courts.

- - - - -

MR. HENRY N. OTTNOT: RECALLED:

BY MR. WOODCOCK:

Q Mr. Ottnot, you are a part of the office of the Automobile Commission in Louisiana? A Yes sir.

Q What is the correct name of that office?

A Automobile License Bureau Manager. You can call it a Commissioner.

Q And you have charge of the office here in New Orleans?

A Yes sir.

Q Is that where a citizen of New Orleans would come to apply for an application? A Yes sir.

Q And after you get his application do you issue the license? A Yes sir.

Q Right here in New Orleans? A Yes sir.

Q Then what do you do with what he signs?

OBJECTION: MR. SLADE: That was gone over this morning.

THE COURT: He has testified to that.

MR. WOODCOCK:

I really do not think it was gone into. It seems a small point. I want to get this evidence in. I think this witness is competent to show this thing is relevant.

THE COURT: All right.

BY MR. WOODCOCK:

Q What do you do with the blanks after you issue the licenses?

A Send the originals to Baton Rouge and the duplicate to the City Hall.

Q Did you come here in this Court in answer to a subpoena to bring certain records with you to take Mr. Conway's place? A Yes sir.

Q Mr. Conway is who? A Secretary of State.

Q His office is where? A Baton Rouge.

Q The records are kept where? A Baton Rouge.

MR. WOODCOCK:

You do not want Mr. Conway to come here in person, do you?

Q Is this the subpoena turned over to you?

A Yes sir.

Q And this is one of the things you brought in reply to that?

A Yes sir.

Q Can you state whether or not that is the original application for the licensing of this particular car?

(Indicating)

A Yes sir.

Q How do you know that?

A Because we issue the white one for the original and the pink one for the duplicate.

Q What is that word up here? (Indicating) A "Duplicate."

Q What is stamped down here? (Indicating) A "Paid."

Q Do you recognize that stamp? A Yes sir.

Q Where is that stamped? A At 526 Canal St.

Q At your office? A Yes sir.

Q Do you know what that curlicue is on there? (Indicating)

A The cashier's signature.

BY THE COURT:

Q Where has that paper been since application was made?

A Baton Rouge. We send them to Baton Rouge.

MR. WOODCOCK:

Does Your Honor insist that the Secretary of State should come down here -

BY THE COURT:

Q You are employed in that department of the State?

A Yes sir, Manager of the office here.

Q And the application for licenses here are billed at this office?

A Yes sir; all other parishes too.

Q You do not keep any copy of that paper in New Orleans here?

A No sir. The copy goes to the city hall, to the Commissioner for personal tax, and the original goes to Baton Rouge.

MR. WOODCOCK:

And the subpoena was issued there, and as a matter of convenience he answered the subpoena.

THE COURT:

As a matter of convenience let the testimony go in.

THE WITNESS:

At that time Mrs. Grosjean was Secretary of State.

MR. WOODCOCK:

He knows this is the original. He recognizes the stamp that goes on the original.

BY THE COURT:

Q You mean the stamp of your office here?

A Yes sir.

BY MR. BRITTINGHAM:

Q Did you take that personally?

A No, no. The clerks in the office certify the licenses.

Q The clerks in the office takes them?

A Yes sir.

OBJECTION: MR. BRITTINGHAM: We object.

THE COURT: Overruled.

MR. BRITTINGHAM: Exception.

OFFER: MR. WOODCOCK: I offer that in evidence marked G-65.

MR. BRITTINGHAM:

I understood you offered all four of them.

MR. WOODCOCK:

You could not possibly have understood that. I said this one sheet here. (Indicating) Gentlemen of the jury, this is the application for the automobile truck for license #40-016.

MR. SLADE: I do not think it is fair -

THE COURT:

I overrule your objection. You may have an exception.

MR. WOODCOCK:

This is the retained copy of the seller of that automobile supporting the entry on the ledger account for John McGovern.

THE COURT:

Suppose you say they correspond to the entry.

MR. WOODCOCK:

(To jury) Entry here of \$1127.65 plus the \$10.44, equalling this supporting voucher. This is the journal sheet of M. D. O'Neal - the ledger sheet I should have said - and this is the general journal of this organization, upon which, at the lower part, under date of March 31st appears the entry, John McGovern, M. D. O'Neal, transfer, and you will find the number, the folio of the journal referred to on each of those ledgers here.

MR. SLADE:

May we at this time, with the permission of the Court, state that these exhibits that were just called to the attention of the jury, that only that part of those exhibits - of the writing on those exhibits - which has reference to the subject matter, need be considered?

THE COURT:

Oh yes. Gentlemen, you do not consider any part of those records excepting the entries of the subject matter here.

MR. WOODCOCK:

I want to go a little further with this witness to save time.

Q What is this big book; did you bring this up here?

(Counsel hands witness book and witness examines same)

A Yes sir.

Q What is it?

A That is where we look up for numbers, who owns car so and so; I give you the information out of this book.

Q Is that a record out of your office?

A Yes sir.

Q Official record? A Yes sir.

Q You brought them here this afternoon?

A Yes sir.

Q Will you state whether this same number 40-016 appears in there? A Yes sir.

BY MR. BRITTINGHAM:

Q Who gets together this record? A In Baton Rouge.

Q Isn't it the Ramos-Jones Printing Co.?

A Another one got this one.

Q Another firm? A I disremember who got that up.

Q Some printing company in Baton Rouge gets this together and distributes free copies, some to your office and some to Mr. Conway?

A They give them to us free, but sell them on the outside.

Q You know the name of that printing company?

A Ramos & Jones Printing Co., but this was gotten together by some other private printers.

Q But not gotten up by the State? A No.

Q The stenographer went there and used the State records?

A Get them from the office at Baton Rouge.

Q The stenographer of the printing company get those

records from the office at Baton Rouge? A Yes sir.

Q And makes up the record and the printing company prints them? A Yes sir.

Q And gives you a free copy, and a copy to Conway, and the balance are sold to the public? A Yes sir.

Q That is a private enterprise not connected with the State? A Yes sir.

BY THE COURT:

Q But you keep that copy in your office as a record of the transactions? A Yes sir.

THE COURT: The record is in. You may have an exception.

MR. SLADE: The whole record?

MR. WOODCOCK: There will be three or four cars.

THE COURT: The cars the attorney points out.

BY MR. WOODCOCK:

Q In 1931, isn 't it? A Yes sir.

- - - - -

R. H. LOVE: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A R. H. Love.

Q Mr. Love, what business are you in?

A Automobile business.

Q Selling what cars?

A I am selling Chevrolet cars now, but I was selling Ford cars then.

Q In 1930 and 1931?

A Yes sir.

Q Where are your headquarters? A Poplarville, Miss.

Q You are the son of Mr. Love who was here this morning?

A R. D. Love, yes sir.

Q Will you state whether you know Leander Necaize?

A Yes sir.

Q Will you state whether or not you had any dealings in automobiles with him at any time during 1931 and 1930?

A Yes sir.

Q When was it? A It was about February 1931.

Q What was the deal between you and Mr. Necaize?

A I sold him a Deluxe Ford Roadster.

Q How did he pay for it? A In cash.

Q What was the kind of bills? A \$100.00 bills.

Q How many hundred dollar bills did he give you?

A Four.

Q Did you give him any change back? A Yes sir.

OBJECTION: MR. SLADE:

Under our previous objection that is not binding or admissible against us at this time. It only has reference to the particular person -

THE COURT:

I think I made that very clear to the jury.

CROSS EXAMINATION:

BY MR. GEX:

Q Leander Necaise lives over 14 miles from any bank?

A Yes sir.

Q Do you know whether he keeps a bank account at all?

A No sir.

Q You do not know anything about that? A No sir.

Q And he bought this car from you and gave you an old car in exchange? A Yes sir.

Q And gave you the balance in cash? A Yes sir.

- - - - -

C. W. PRATHER: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A C. W. Prather.

Q What is your occupation?

A Federal Prohibition Investigator.

Q How long have you been one?

A Since September 1930.

Q Do you remember going to the vicinity of the Allen Plantation about the 17th of October 1931?

A Yes sir.

Q Did you see the defendant, Leander Necaise there?

A Yes sir.

Q Now will you tell when you went and what you saw - first, where is the Allen plantation?

A On the Jordan River near Kiln, Miss.

Q About how far from Kiln is it?

A I would say about a mile and a half. I do not exactly know, maybe two miles.

Q Is the Allen plantation in fact a plantation?

A As I know it, and what I know about the Allen plantation, it was a residence on Jordan River. Now how much plantation there is to that, I don't know.

Q Who lives there?

A At the time I was there Luther Cameron lived there.

Q We might save time if you just tell what you saw and did there, instead of my questioning you?

A Yes sir. Well, I went there in a government car with Investigator Blank.

Q What time?

A About 11:00 P. M. in the evening of October 17, 1930.

Q Who went with you?

A Braun, Blank and Smith, Investigators, and the informer we picked up in Kiln, Miss., and we went to the truck that had fallen in the bridge east of Kiln, Miss., and in this truck we saw sawdust, and we could smell the strong odor of whiskey around the truck, an International truck, license No. 56-627.

Q You did not tell just where that truck was?

A It was in the bridge east of Kiln, Miss., on the highway.

Q How close to the place where you afterwards found the contraband?

A I do not remember exactly, but it was two or three miles up the highway.

Q What was the condition of the truck?

A The bridge had fallen in and the back end of the truck was back in the river.

Q Anything in the truck?

A No sir, tarpaulins and sawdust in the truck. We turned then and came back in the direction of Kiln, Miss. and took the side road leading into Allen plantation. We drove down to a ramp in front of the house. As we drove into the gate leading up to the house, a man came out the back door and threw a flash light on the car as it came in, and as we came in drove parallel with him and I grabbed my flash light and flared it back on him.

Q Who was he?

A Tom Malini, and behind him was a negro we afterwards learned was John Knight. We drove to the bank of the river and I got out of the car, and the man put the light on us again, and I was still shining my light on him, and he turned back and went in the house. I walked to the landing, and a man came alongside the car and

asked us who we were and what we were doing there. I said "who are you and what are you doing here?" He said his name was Chester Travirca. I said: "Where are you from?" -

MR. WOODCOCK:

He is not a defendant, so I guess you cannot tell -

THE COURT: You cannot repeat the conversation.

BY MR. WOODCOCK:

Q Do not repeat what Travirca said.

THE WITNESS: Repeat what I said to him?

THE COURT: No.

A (Witness continuing) I walked to the ramp and turned back and walked to the front of Luther Cameron's house and turned the light on the front porch, and there were several men and women on the porch. When I turned the flash light on the porch, they broke and ran off the porch. They put out the lights and you could hear the crash of bottles and smell the strong odor of liquor.

Q You mentioned ramp; what do you mean by that?

A Ramp, platform.

Q Wharf?

A Wharf.

Q Over what river?

A Jordan River.

Q After you heard this smash of bottles, and the odor and so forth, what did you do?

A We got in the car and drove away.

Q Why did you do that?

A Things didn't look so good around there.

Q Discretion wasn't it?

MR. GEX: Can't you state facts?

THE COURT: Yes. I sustain the objection to that.

BY MR. WOODCOCK:

Q What time of the morning or night was it?

A About eleven o'clock, a little after eleven.

Q Where did you go?

A We drove out on the highway and patrolled the road the rest of the night. We saw three men on Luther Cameron's place whom we identified. We saw them the next day.

Q Who were those men?

A Luther Cameron, Leander Necaise, Sam Dandridge and Jim Dandridge, and several women.

Q Did you see any automobiles out there that night?

A Yes sir, Chevrolet Sedan with Mississippi license, No. 61-077, and a Ford Sedan with license No. 114-582, parked alongside and in front of Luther Cameron's residence, 1931 licenses.

Q And where was the first car, the Chevrolet?

A Well, it was parked behind, or between the house and the ramp. As you drive in the house faces the ramp, and they were parked on the lawn between the house and the river.

Q Two cars together?

A No sir. They were sitting some 30 or 40 feet apart.

Q Where did you go after leaving the house.

A We went back to the highway, and as we turned east on the highway, we saw a car coming out from this place and turn back, and it was a Chevrolet with Mississippi license No. 61-077.

Q The one you seen parked?

A Yes, driven by Sam Dandridge, and two other men in the car, and that car drove down the highway towards Kiln, Miss., and turned in near Henry Dandridge's place.

Q Do you know who else was in the car besides Sam Dandridge?

A No sir.

Q Did you ever see that car again?

A Yes sir, that car followed us all night.

Q Explain that a little more fully; followed you?

A We went to Bay St. Louis and telephoned the deputy administrator to send additional help, and left two men to watch for any boats that might come out, and also come out the city and contact them later in the night, and returned in the direction of Kiln and patrolled the road in that vicinity.

Q And you say these two cars were around about where you were?

A Yes; followed us all night. We met them at a half dozen

different places on the highway that night.

Q What happened next?

A While we were patrolling the road just before daylight, we went north of Kiln, Miss. and a Ford coupe was parked on the highway, with license No. 16-305A that had been abandoned during the night, and we had met that car between Kiln, Miss. and Bay St. Louis, and it had passed us, and that car was out of gas. It had two city New Orleans brake tags on there.

Q 16-305A?

A Yes sir.

Q What kind of car was it?

A Ford coupe.

Q You had seen it before that evening?

A Yes sir. We met that car between Kiln, Miss. and Bay St. Louis, and then it passed us on the road.

Q Just where was it abandoned?

A Just north of Kiln, Miss. on the Poplarville Highway, leading from Kiln, Miss. on, what they call the Poplarville road, they told me.

Q About how far from the place where the liquor was smelled?

A Where we found the truck in the bayou was east of Kiln, Miss. and this car was northwest of Kiln, Miss. leading back in the direction of Poplarville, or road that led back in the direction of the city, half a mile or better out of Kiln.

Q What happened next?

A Well, we called for help, and the help came about five o'clock the next morning. We then had an understanding as to what the other agents would do. They went down the river to look for boats, and Mr. Braun, Smith and myself drove back to Allen plantation about daylight, and just then we came to a road off the highway and we met a Chevrolet sedan, Mississippi license No. 61-077, with a number of men in it, and we met the Ford sedan with license No. 114-542 coming out from the Allen plantation, and we drove into the plantation, drove back near the ramp, parked the car and got out. We could smell the strong odor of liquor, and we walked around the ramp, and there were heavy truck tracks leading from the ramp to Mr. Cameron's residence.

Q What kind of a house was it?

A An abandoned residence. And in this house we found a cache of liquor.

Q What did you find in there?

A 1057 gallons of whiskey. We checked it. It was Biccardi rum, assorted liquors.

Q Did you make any memorandum of what you saw there?

A Yes sir.

Q Will you refresh your memory and tell me a little more accurately?

A Yes sir. I have a memorandum here that I made.

Q Refresh your memory from that and tell me exactly what was found there?

A (Witness refers to document) 22 - 1 gallon jugs Biecardi rum; 8 barrels, 96 gallons Bicarrdi rum; 61 barrels 61-1/2 gallons assorted whiskey; 11 cases creme-de-menthe 45 gallons; 3 cases assorted liquors 15 gallons; 5-1/2 cases Scotch whiskey 16-1/2 gallons; 1/2 case champagne, gallon and a half; one case gin, 3 gallons; 2 cases cherry whiskey, six gallons; 17 barrels Bourbon whiskey.

Q You say barrels, you mean loose in the barrels or what?

A No sir, packed in pints and quart bottles and wrapped and labelled and packed into sacks. Some have six quarts and some have twelve pints to the sack, and these sacks are packed in barrels about the size of sugar bags.

Q You mean sacks similar to these offered in evidence?

A Yes sir.

Q And those are put in barrels?

A Those are put in barrels with sawdust between the sacks.

Q You have had a good deal of experience as a prohibition agent in whiskies and liquors, have you not?

A Yes sir, since I have been on the force.

Q Can you express an opinion as to whether that was imported liquor or not?

A Yes sir, that was imported liquor.

Q What did you do with it?

A We destroyed it right there on the ground.

Q Keep any samples? A Yes sir, kept bottles of it.

Q Do you know where they are?

A At this time they are in the Gulfport jail.

Q Did you take any steps to liberate them from the Gulfport jail and get them here as evidence?

A Yes sir.

Q Now, did you see any more people around there that day?

A The day we destroyed the liquor?

Q Yes.

A Yes sir. We saw Luther Cameron. There were a number of people who came there, but when I came back through Bay St. Louis I called and reported the seizure. I picked up a number of darkies to assist in destroying the liquor, and I left the scene at that time and went by the G&SI Railroad; I had information they were loading cars on the G&SI Railroad, and learned afterwards they were loading them in Biloxi, Miss.

OBJECTION: MR. SLADE: I ask that be stricken out.

THE COURT: Let it be stricken out.

BY MR. WOODCOCK:

Q Did you see Leander Necaise that day?

A Yes sir. After we came out to Kiln, Miss. I saw Leander Necaise. Mr. Smith pointed him out.

Q Smith pointed him out to you?

A He said that was the man that had been there.

OBJECTION: MR. GEX: We object to what Smith told him.

THE COURT: Exclude that.

BY MR. WOODCOCK:

Q Smith did point to the man?

THE COURT:

He has testified to that, that Smith pointed the man out.

BY MR. GEX:

Q Allen Plantation is not really a plantation. It is a plantation owned by Dr. Allen here in New Orleans?

A I don't know if it is owned by Dr. Allen.

Q It is a big old residence? A Yes sir.

Q And a little house in the yard where Cameron lives?

A I think Cameron's house was pretty near as big as the other house.

Q Did you look at it? A Yes sir, I looked at them both.

Q Don't you know one is a big residence and the other is the keeper's house?

A It might be the keeper's house, but it is a pretty good sized house.

Q You did not find anything in Cameron's house?

A No sir. We didn't look for anything in Cameron's house.

Q How far is this Cameron house from the old abandoned home of Dr. Allen?

A About 70 or 80 yards.

Q This ramp you are talking about; do you know Mr. Munson built that years ago when he lived at that place?

A No sir. I don't know anything about that.

Q You said you saw an abandoned car on the Poplarville road?

A Yes sir.

Q That is the main artery on the road to the interior of Mississippi?

A I don't know about the main artery. It is one of the main roads leading from Kiln.

Q That is one of the main roads, is it?

A It might be.

Q And you saw a car on that highway?

A Yes sir.

Q You do not know whose car it was?

A Not at that time I did not know.

Q There was no liquor in that car?

A No sir, no gas either.

Q When you went to destroy that liquor, Leander Necaize was not there?

A No, never was there when I was there.

Q And you were there when they destroyed the liquor?

A Not all the time.

Q When you undertook to destroy that liquor a big bunch of people came there?

A Mr. Smith told me quite a number of them.

Q I don't want to know what Mr. Smith told you?

A There were not many there, but what few were there was gotten away.

Q And you undertook to destroy the liquor and you hired negroes to do it?

A No sir, I didn't undertake to do it; I destroyed it.

Q You destroyed it yourself? A I had it done.

Q Nobody interfered with you? A I was told -

Q Don't tell what Mr. Smith told you. Did anybody interfere with you? A No sir.

Q And on your way back to Bay St. Louis you saw Necaïse at the Kiln on the other side of Jordan River?

A On the same side of Jordan River that the Allen Plantation is on.

Q That river has a dog leg in it about the Kiln?

A Yes, it has several bends there.

Q It has a dog leg^{about}/north of the kiln - the kiln on the other?

A Both on the north side of the Jordan River.

Q And when you were at that Kiln about three miles off you saw Necaïse at the Kiln. That is where he lives?

A Yes sir, he lives there.

Q And when you left the place where you destroyed that liquor, how much did you destroy?

A We were just beginning to destroy it. We broke the stuff, as I recall it - at the time that they were breaking

the stuff that was sacked, I told them to assort one barrel out at a time and break it, have the negroes hammer it and break it.

Q Necaise was not there. He was home at Kiln, because when you started back, you saw him at the Kiln?

A Yes sir.

Q Did I understand you to say that was in October 1931?

A About the 17th of October 1931.

- - - - -

HORACE SMITH: Witness, being duly sworn and examined on behalf of government, testified as follows;

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Horace Smith.

Q What is your occupation?

A Federal Prohibition Agent.

Q How long have you been a Federal Prohibition Agent?

A Since July 1931.

Q Your title now is Investigator? A Yes sir.

Q Do you remember going to a place called the Allen Plantation in October 1931? A Yes sir.

Q Will you please tell the jury what you saw and did there?

A Beginning from the time I left there?

Q Yes.

A We left New Orleans about eight o'clock and went to Bay

St. Louis and from there to Kiln, Miss. On the road we talked to Mr. Thigpen - no, Tony Cefelu first, and we went on the Kiln-Gulfport Highway, I think it is to a bridge that was broken through by a truck, and we investigated this truck -

Q Did you take the license number?

A Mr. Prather did. We inspected this truck, and from there turned and went back down to the boat landing on Jordan River, at the Allen Plantation. We had to leave the highway to go down there. When we got down there, there were some men coming from the house going in to the left, to the house over to the right, and we went down to the boat landing. We were ordered to go there to intercept a boat. There was no boat there -

MR. SLADE: I ask that be stricken out.

THE COURT: Yes, exclude that. He did not find any boat.

BY MR. WOODCOCK:

Q Did you observe the condition of the wharf or ramp, and the road leading to it? A Yes sir.

Q What did you see there, if anything?

A A well travelled road right down to the water's edge, truck tracks.

Q Then what did you do?

A We had been there many hours and a light flashed on us in the house, and Mr. Prather and Mr. Braun threw a

flash light back, and we saw several men.

Q Did you recognize any of the people you saw that night in the flash light?

A I recognized two of them.

Q Who were they?

A Leander Necaise and Tom Malini. We could smell the odor of liquor while we were there, and heard some bottles broken in the house.

Q You made no attempt to enter the house?

A No sir. We decided to go out and came back in the daylight. There was only one road out there so we went out and patrolled that road.

Q You came back the next morning?

A We came back the next morning. When we were near the vacant house that we were informed was vacant, we could smell the odor of alcohol, liquor, and went in and found the place pretty well stocked with liquor.

Q That was not the house where you heard the noise of breaking?

A No sir.

Q Did you see any other automobile there parked on that road?

A After we got ^{out} there were two other cars that followed us while we were patrolling them.

Q Did you get the license number?

A Mr. Prather and Mr. Braun were in the front seat, and

they took the license number.

Q Did you see any car abandoned that morning?

A We stopped at a black Ford coupe. They also took the brake tag number of that.

Q You say you found liquor in this house?

A Yes sir.

BY MR. GEX:

Q When you say this house what are you referring to?

A Allen summer home.

BY MR. WOODCOCK:

Q How much did you find there?

A I think something like 1300 gallons.

Q Will you describe how it was packed?

A Some of it was packed in pint bottles. The sacks were put in barrels.

Q The sacks are something like the exhibits offered in evidence?

A Yes sir.

Q Did you have anything to do with the destroying of that liquor?

A Yes sir.

Q How long did it take you?

A I was there by myself. I had four negroes working under me from about 7:30 to 11:30. At that time three other agents came, and at 1:30 more agents came.

Q Now, at the time that you were alone, did you see Leander Necaise?

A Yes sir.

Q Where did you see him?

A He came to this place and demanded that I turn this liquor over to him.

Q What time of day was that?

A About 9:30 in the morning.

Q What did he say when he -

A He got out of the car with two other men -

Q Do you know who they were? A No sir.

Q You were there alone? A Yes sir.

Q With your negro helpers?

A Yes sir. So far as any agents, I was there alone. He got out of the car, and all three approached, and Mr. Necaise says: "I am Leander Necaise, Deputy Sheriff, Hancock County, Constable, Ward 4. Are you finished destroying this liquor?" I told him I had only started. He said: "I come to take it over."

Q What did you say to that?

A I told him it was the policy of the government to destroy the liquor, and told him there was not anything there for him. He then repeated that he was Leander Necaise and Constable of Ward 4, and we could not come into his County and do anything without first coming through his office.

Q Did you give him the liquor? A No sir, I did not.

MR. GEX:

Let him tell the conversation, please.

BY MR. WOODCOCK:

Q How did the conversation end?

A There was some more of it, and finally Mr. Necaise decided that I was right.

Q He left you, did he? A Yes sir.

Q And in the afternoon you had some help come and help you finish it? A Yes sir.

Q Do you know whether any samples were saved?

A Yes sir. There were - I tried to save samples of every kind of liquor in accordance with instructions at that time.

CROSS EXAMINATION:

BY MR. GEX:

Q Mr. Smith, this place up here, do you know if that place belongs to Dr. Carroll W. Allen here in New Orleans?

A I only know what I was told about it.

Q You talked about a plantation -

A It is an abandoned citrus farm; I saw that.

Q You understand it belonged to Dr. Carroll W. Allen here in New Orleans?

A That is what the investigation disclosed.

Q That is the big house? A Yes sir.

Q The little outhouse in the yard, that is where Luther Cameron lives?

A About 80 steps, if I remember correctly.

Q About how many feet is a step?

A I spent quite a while in the army and we generally call it a 30 inch step.

Q It was about 80, thirty-inch steps? A Yes sir.

Q That is about how far this keeper's house was away?

A Yes sir.

Q You did not search the keeper's house? A No sir.

Q You do not know whether there was any liquor in that?

A No sir.

Q Now you say when you went to the Allen house, I mean Dr. Carroll Allen's place, you say you smelled liquor outside?

A There were some bottles broken.

Q I mean in the house?

A There was a jug with the stopper pushed in, and broken bottles there; when unloading there would be broken bottles.

Q When Leander Necaise came there he made known to you that he was the deputy sheriff and offered you assistance?

A No, he did not make any mention of offering assistance.

Q Did he show you his badge as deputy sheriff?

A No sir.

Q He told you he was the deputy sheriff? A Yes sir.

Q And that he was the constable of Ward 5?

A Ward 4.

Q And all this took place in Mississippi?

A Yes sir.

Q That is all he said to you, that he came there to take charge of that liquor, and you made known to him that you were a prohibition officer, and you destroyed it by virtue of your authority, and you told him you were right? A He demanded a list of the liquor.

Q Did you give him a list? A Yes sir.

Q Is that all he did? A Yes sir.

Q And then you went to Biloxi and had him indicted for intimidating you? A Yes sir.

Q And you have got him on indictment now?

MR. WOODCOCK:

It is fair to say this witness could not have anybody indicted.

MR. GEX:

That is true. The Grand Jury generally acts, but they are not deaf and dumb. They must have some witnesses.

THE COURT:

Ask him did he appear as a witness. As a matter of law he cannot have him indicted.

MR. GEX: That is true, Your Honor.

Q Did you go before the Grand Jury and there testify that

what he did was an interference with you in carrying out your duties? A Yes sir.

Q And he was indicted, wasn't he?

A I think he was.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Did you consider what he did an interference in the discharge of your duties? A I did.

MR. SLADE: That is calling for a conclusion.

THE COURT:

I think the only part that is relevant is that he appeared before the Grand Jury.

BY THE COURT:

Q You told the Grand Jury what you knew about what happened?

A Yes sir.

BY MR. GEX:

Q All of this was in Mississippi? A Yes, sure.

OFFER: MR. WOODCOCK:

I would like to offer in evidence the two entries in the book identified by Mr. Ottnot with respect to the automobiles seen and described by Mr. Prather, bearing automobile license 16-305A, motor No. A4067057, Ford coupe, J. L. O'Neal, 2924 So. Carrollton Ave. License No. 114-582, motor No. AA3098047, Tudor, called here t-door, J. L. O'Neal, 2924 So. Carrollton Ave., marked G-62.

MR. SLADE: You read into the record the license number -

MR. WOODCOCK:

The book is in evidence, and I call attention to these two entries.

THE COURT:

The book is properly identified, and the offer of those two entries.

MR. SLADE:

Your Honor permits those licenses read in here? We are not bound by the book.

THE COURT: That is true.

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JOHN FARMER: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A John Farmer.

Q Where do you reside? A Forest, Miss., Scott County.

Q Where were you living in 1931? A Kiln, Miss.

Q What was your occupation during that time?

A School teacher.

Q Do you know Leander Necaize? A I do.

Q Do you remember about the 17th or 18th of October coming across him on the road? A Yes sir.

Q Will you describe just what you saw that evening?

A I was coming down the road known as the Munton road or Allen plantation, as they call it now, I was coming down to what they call Bayou Coco graveyard, and someone stopped me. I couldn't exactly tell who he was at that time. He had on dark clothes and his coat collar pulled up high, and he stopped me all at once, and flashed a light in the car and said he just wanted to know who I was, and go ahead and keep my mouth shut. I can positively swear it sounded like Tom Malini's voice. I came down to Peters Bayou and came upon several trucks at that place transferring whiskey it seemed from one truck to another.

Q What time of night was it?

A It was about 9:30 or 10:00 o'clock.

Q How many trucks were there then?

A One large truck and one small truck.

Q Did you see Mr. Necaise that night? A I did.

Q What was he doing?

A Just standing around talking. I slowed up as I went by.

BY THE COURT:

Q Standing at what place, where the whiskey was being transferred?

A Yes sir.

BY MR. WOODCOCK:

Q Transferred from one truck to another?

A Transferred from one truck to another, yes.

Q What was the condition of the truck, or either of them that you saw?

A The larger truck was headed towards the road and the smaller truck was drawn up just outside of the road.

Q Transferring from the small to the large truck?

A To the large truck.

Q You saw Mr. Necaise in that vicinity? A Yes sir.

Q Did you exchange any words with him?

A No. I didn't stop, I slowed up and went on.

Q Did you see any other of these defendants there in that vicinity that evening? A Yes sir.

Q Whom did you see?

A Sam Dandridge and Henry Dandridge.

Q What were they doing?

A At that time looking to see who was coming, what it was.

Q That is you, when you appeared in your car?

A Yes sir.

Q Were they near the trucks in that vicinity?

A They were near the large truck.

Q You saw Sam and Henry Dandridge. You said the voice of the man that stopped you was that of Tom Malini?

A That is right.

Q A short time prior to this had you had any talk with Mr. Necaise on the subject of importing liquor, smuggling liquor? A Yes sir.

Q When was that talk?

A That was something like, oh, a month or a month and a half perhaps before that.

Q What did he say to you about it?

A He told me how they smuggled it at night, what they did, how they brought it in, they brought it in boats, how they repacked it in these barrels and shipped to different points along the coast to New Orleans, in barrels, sawdust packed around it, and shipped from these different points as naval supplies or lumber.

Q He told you that?

A Yes sir.

Q Did he indicate whether he had any part in it or not?

A He said: "We do so and so," or "We do this," or something like that.

Q You were in a sense under him officially at that time, were you not, that is, did he have anything to do with your employment as teacher?

A Not directly.

Q Did he have indirectly?

OBJECTION: MR. SLADE: We object.

MR. GEX: We do not object for Necaise.

BY MR. WOODCOCK:

Q What was his official position?

A He did not have any official position.

Q You were regularly employed?

A Yes sir.

Q You had no enmity towards him?

A Not that I know of.

CROSS EXAMINATION:

BY MR. GEX:

Q When did you say this was the first time you saw the liquor transferred from truck to truck?

A About ten days before the seizure of the liquor at Cameron's place about October 17th.

BY THE COURT:

Q You mean about ten days before the 17th?

A Before the seizure.

BY MR. GEX:

Q You were professor of the school at Kiln?

A Yes sir.

Q You said you had no animosity towards Mr. Necaise?

A Yes sir.

Q Didn't he have you fired for getting drunk in the school?

A Absolutely not.

Q You have no animosity towards Mr. Dandridge?

A I can say -

Q Didn't you go to his home drunk and the boy whipped you in the presence of his mother?

A We had trouble -

Q You were not drunk?

A I was not drunk; he was drunk.

Q And you say under oath he did not whip you?

A He did not whip me.

Q That is not true? A No.

Q And you were fired from that school for being drunk?

A I was not. That is what they claimed.

OBJECTION: MR. WOODCOCK:

I do not think that is proper cross examination.

THE COURT: He can ask about those instances.

MR. GEX: I can show his animosity.

Q Weren't you drinking the night you say you saw this fellow? A No sir.

Q You had not had a drink? A No sir.

Q Where do you say you are located now?

A Forest, Miss.

Q You left Kiln, didn't you? A Yes.

Q Left there pretty hastily, didn't you?

A No, not hastily.

Q All this was in Mississippi, wasn't it?

A Yes sir.

Q Do you know anything about any of these other gentlemen in this Indictment? A No sir.

Q You do not know them at all? A No.

CROSS EXAMINATION:

BY MR. SLADE:

Q You are not associated in business in any way with Mr. Malini? A No.

Q You never have been? A No.

Q You are not his confidential man? A No.

Q You are not conversant with his affairs?

A Not now, no.

Q Never was? A Who, Mr. Malini?

Q Yes, the man you are speaking about here? A No.

THE COURT:

He has been speaking about two or three. Mr. Necaise is the principal one he testified about.

BY MR. SLADE:

Q What is the name of the gentleman Mr. Gex asked you about that whipped you?

THE COURT:

I will not permit you, Mr. Slade, to go into -

MR. SLADE: This is entirely new matter, Your Honor.

THE COURT:

I do not agree with you. You may have an exception. It is evidently the same matter about being whipped by a boy.

BY MR. SLADE:

Q Who did you say made a confession to you?

A What about?

Q How he got the liquor, where he sold it.

A He did not tell me where he sold it.

Q How it was brought in, how it was packed?

A Leander Necaise.

Q I am talking about that man. Were you in business with him?

A No.

Q Were you his financial man?

A No.

Q He did not consult you when he did anything? A No.

THE COURT:

The other Attorney cross examined him about Necaise.

You can have your exception.

MR. SLADE: Exception.

THE COURT:

I will not permit two Attorneys to cross examine the witness about the same proposition.

MR. SLADE: I am not representing all the defendants.

THE COURT:

The gentlemen preceding you asked that question.

MR. SLADE:

I respectfully submit not a single word was asked on that subject.

THE COURT: He asked if he did not have him fired.

MR. SLADE:

That has nothing to do with the subject I am examining him on.

THE COURT:

You can have an exception. You may as well understand once and for all I will not allow the Attorneys to take

it in relays, unless it is a different subject and different line of examination.

MR. SLADE: That is exactly what I tried to do. Exception.

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MRS. ROBERT BRUCKER: RECALLED:

MR. WALLACE:

We have some witness subpoenaed from Mississippi, and to make sure, might I ask the stenographer to turn to Mr. Prather's testimony and give me the date upon which he entered the Allen plantation.

THE COURT: I am pretty sure the date was October 17th.

MR. WALLACE: I wanted to make sure. That is what I have on my notes.

THE COURT:

We cannot stop for that. Proceed with the examination.

BY MR. WOODCOCK:

Q We asked you to go back and bring your records as to the apartment house you were testifying about this morning. Have you brought those records? A Yes.

Q Do you keep those yourself? A I do.

Q Now will you state who was the occupant of apartment No. 1; what is the address, 33 what?

A 7530 St. Charles Ave.

Q And what do your records show as the occupant of apartment No. 1?

OBJECTION: MR. SLADE:

Your Honor will recall the ruling made in relation to this witness, it was admitted that the information secured was the result of the raid, papers secured from this defendant. You will recall the picture was shown and admitted by Mr. -

THE COURT:

As I recall it, the witness pointed out the defendant in Court this morning as the person occupying that apartment. I overrule the objection.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q What do your records show as to the occupant of the apartment? A One B. M. McGregor or Morrison.

Q What else have you got there?

A I have written before that Clara Campbell.

Q What is this other name down here? (Indicating)

A That is my own name down here.

Q Is this the record that you kept as Manager of that apartment?

A The record I kept at that time.

OFFER: MR. WOODCOCK: I offer that in evidence.

OBJECTION: MR. SLADE:

I offer the same objection, not binding upon us purely hearsay, irrelevant and immaterial.

BY MR. WOODCOCK:

Q Is the man indicted here, or the individual by this name B. M. McGregor, or Morrison, in the Court room?

A Yes sir.

Q Where is he? A He is sitting right there.

MR. SLADE: Stand up? (Defendant stands up)

Q Is that the gentleman? A Yes sir.

BY THE COURT:

Q And that is a record of his occupancy of that apartment?

A Yes sir.

THE COURT: Let the record go in.

MR. SLADE: Exception.

BY MR. WOODCOCK:

Q Who is this Clara Campbell? A Well, who is she?

Q Yes. A Well, she is Clara Campbell.

Q Did she live in the apartment? A Yes.

Q When did she leave there?

A At the time McGregor or Morrison left there.

Q Was she a servant, or employee, or something of that sort, of McGregor or Morrison, or a friend?

A I would not call her a servant.

BY THE COURT:

Q Did she leave there at the same time? A Yes sir.

Q And does it show that they are not there now?

A No sir, they are not there now.

OFFER: MR. WOODCOCK:

I offer in evidence the telephone record of Clara Campbell, 7530 St. Charles Ave., which is identified as G-63. This is the same name of the party the witness says lived at that place.

OBJECTION: MR. SLADE:

We object to that as not binding upon us. She is not a defendant in this case.

THE COURT: Overruled.

MR. SLADE: Exception.

THE COURT: Let the record show it is admitted in evidence.

MR. SLADE: You are not offering this? (Indicating)

MR. WOODCOCK: That is attached to it.

MR. SLADE:

The memorandum of the telephone company is not binding upon us.

THE COURT: You can have your exception.

MR. SLADE: They have a private memorandum here.

THE COURT:

That part I will let go in showing when the service was discontinued.

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HARRY F. RICHARDSON: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Harry F. Richardson.

Q You are a Federal Prohibition Agent? A Inspector.

Q Did you go with a deputy marshal to serve a search warrant on the defendant Morrison on April 11, 1931?

A I did.

Q Where did you go? A I went to 3327 Canal St.

Q Did you find the defendant there? A I did.

Q Did you go into his apartment? A I did.

Q Did you look at the telephone there? A I did.

Q What was the number on the dial of that telephone?

A Galvez 6959.

OFFER: MR. WOODCOCK:

We offer in evidence for identification exhibit G-57, which is the telephone record of this same telephone, Galvez 6959.

OBJECTION: MR. SLADE: We object.

THE COURT: Overruled.

MR. SLADE: Exception. May I ask that be read in there.

MR. WOODCOCK:

We will take the pink slip off to save all the talk about it.

MR. SLADE: Take it off the other one too?

MR. WOODCOCK: Yes.

W. BRUCE MURRAY: Witness, being duly sworn and examined on behalf of government, testified as follows;

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A W. Bruce Murray.

Q Mr. Murray, state what your occupation is?

A Special Agent in the Bureau of Prohibition.

Q How long have you been in that place?

A Eight years.

Q Have you specialized in any particular kind of work?

A Yes sir.

Q What was that? A Telephone and radio.

Q What did you do before coming in the Bureau of Prohibition?

A I was in the Army, and Engineer for the Bell Telephone Co.

Q How long were you with the Bell Telephone Co.?

A Several years altogether.

Q You are familiar with the way telephones are equipped and installed?

A Yes sir.

Q You have made a specialty of that since being in the Bureau of Prohibition?

A Yes, I have.

Q Now I want you to say whether or not you made an investigation of the telephone known as Galvez 6959 in New Orleans?

A Yes, I did.

Q And where is that telephone located?

A 3327 Canal St.

Q Now how did you proceed to make your investigation of that telephone?

A I learned there was a telephone installed at that address, 3327 Canal St., and about February 18th I proceeded to that vicinity and found where the drop wire left the last cable terminal and proceeded by open wire to this address.

Q Now the cable terminal is in a box up on a pole?

A Yes sir.

Q So anybody can see it? A Yes sir.

Q And what do you mean by cable?

A A cable is a lead covering for a series of wires that are used to distribute the various series from the Exchange to the various subscribers.

Q How much wire is there for one particular telephone?

A Two.

Q Are they wrapped together?

A They are wrapped together and known as pairs.

Q And how many pairs in a cable?

A A cable starts with ten pairs and runs up as high as 1800 pairs or more.

Q Describe what the interior of the box is like?

A Cable terminated on the back by a strip, each side of the pair having a screw lug, a lug with nuts on it that will enable one to attach an outside wire to that. In

other words, the cable leaves the rack in the Exchange and proceeds to the terminal box and terminates on the lug that extends from the face of this plug, which is shielded from weather, and only enough nuts and washers to attach to the outside wire that proceeds into the house.

Q You observed from the outside the wire that led into this address, 3320 Canal St.? A Yes sir, I did.

Q Then what did you do?

A When I checked it back it came to the first street that crossed this terminal as you go out Canal St. I first came to the house, and then I came to the next cross street past the 3300 block of houses, and this house was on the right hand side of Canal St. This terminal was on the side street, or the street that runs at right angle to Canal, and the wires were fitted then to the rear of the house that faces on Canal St. I traced the wire, in fact I could see from the pole, and from another pole on the back street parallel to Canal St., I could see this wire coming up to the pole, and when I got up on the terminal I identified the wire, and identified it further by attaching the head set and dialing Galvez 6959.

Q What was the result when you dialed Galvez 6959?

A I got a busy signal.

Q What did that mean to you as a telephone expert?

A That indicated that it was Galvez 6959.

Q That would be the same as you dialing your own telephone?

A Yes.

Q If you dialed your own phone you would get the same kind of signal?

A Yes sir.

Q That is what you were doing?

A Yes sir.

Q Then what did you do?

A I proceeded to the junction box which is located directly in the back of this address, 3327, but on the parallel street to Canal St., that is, the street that parallels Canal, and through the underground terminal, the underground cable terminal, at the cross box and joined on to the cable that runs up to this final terminal. At this point I had facilities there that I could select one of a number of unused pairs and work it back through the cable, put a plug where we went under the house, and connected that line to this pair.

Q Then you connected an unused pair with the pair which led into the Canal St. residence, 3327?

A Yes sir.

Q And followed that back to another place?

A Another small terminal came from there to the open wire to the house.

Q Then that gave you a direct connection with the wire

A It is not.

Q Do you know where that box is on these particular premises that you mention?

A I don't understand what you mean by box.

Q Well, there is a telephone box of some kind which makes connections from whatever source it may come to the house where the telephone is being used?

A Terminal box, cross box, switch box.

Q What box is it necessary for me to have for my telephone; there is some box attached either inside or out?

A Bell box in the house.

Q Anything outside?

A In some cases lightning device.

Q I am not talking about anything else but telephone boxes?

MR. WOODCOCK:

He is telling you there is some lightning attachment on the telephone box.

MR. SLADE: I am speaking of telephone box.

Q You say you first connected the wire at a place on some other street? A Yes.

Q That was several blocks away from this house?

A Not several blocks away.

Q How far away? A About 350 feet.

Q In a straight direction? A Between the buildings.

Q And also went around several streets?

A No, it did not.

Q This is Canal St., isn't it? A Yes sir.

Q There is Southern park facing this house?

A JURYMAN: You mean neutral grounds?

BY MR. SLADE:

Q Neutral grounds? A I believe so.

Q What distance is it from the house where you say you tapped the wire to the corner of the next street. Do you know what distance there is there?

A I should say about 350 feet.

Q And it was on that street that you say you found the wire from this house, running from the back of the house?

A Running from the back of this house to this pole that started about 3327.

Q Now from that pole how far did you go from there before you made any other change?

A From that pole I went back to the street that parallels Canal, and then down until almost directly opposite this house to the cross connecting box.

Q Where is the cross connecting box, what street?

A Street parallel to Canal.

Q Then where did it go from there? A Lopez St.

Q That is another street? A Yes sir.

Q About how far from the place you last spoke of?

A Another city block.

Q That is where you found the feed box?

A That is where I run it to.

Q That is where you plugged in? A Yes.

Q How far from there? A 75 feet.

Q And after you got that wire, you carried that wire to another location on the other side of the street to that pole?

A The last 75 feet run it into the cellar of this house that we had rented.

Q I understand you to say now that from looking from the back of this particular house you could see where the houses were connected in the front part or side part of the house for this particular telephone?

A Yes sir.

Q More than one wire in the back of the house, telephone wires? A Yes sir.

Q You could not tell from the pole, or any one street, which wire was his wire?

A I did when I called it. When I sat upon the pole I could see over the roof of the house 3327.

Q Over the roof of this house in the rear?

A It was only about 350 feet or so, in fact, I don't think quite that far. I could see the rear of this house from that pole, and going in that direction there were several wires going towards that particular address,

but the wire that appeared to me to be the one that went into that address, I clipped in with the head set and determined it was Galvez 6959.

Q You looked over the house, didn't you?

A Yes sir, I did.

Q Look at these and tell me whether you know what apartment that window faces? (Counsel hands witness document and witness examines same)

A Is this the house at 3327?

Q Yes. A I never bothered to go in the back.

Q What are these two boxes at the bottom? (Indicating)

A That looks like a lightning apparatus placed also so that the lightning won't strike the house.

Q You see this wire going up? A I do.

Q You see them turning to the right? (Indicating)

A No, I do not.

Q Look at that picture. You see that wire going up there? (Indicating) A I do.

Q You see that one turning in there? (Indicating)

A I do.

Q And turned in the rear of that same house? A Yes.

Q And whichever way the wires came out, those were the two wires you traced? A Yes.

Q And after they crossed, a distance of about 85 feet, for your information, to the rear of this house, then

which way did the wires go, to the street?

A From your photograph I cannot tell where Canal Street is, which is the front side, or back.

Q Here is your Canal St,? (Indicating) A Yes.

THE COURT:

I take it this is all preliminary to conversations that the government is going to offer that the witness listened in.

Mr. SLADE:

The witness is going to make certain claims on different conversations coming in, and I think we are entitled to develop some facts as to how this was done, under what authority, and the manner done.

THE COURT:

He has already described the way it was done.

MR. SLADE: I do not agree with him.

THE COURT:

Are you going to claim he made the tap in some other way different to the way he testified?

MR. SLADE:

I am not going to claim he made the tap in any different manner, but as a matter of law, if my position is sound, I am going to ask to exclude his testimony. Whether I am right or not Your Honor will have to determine that fact.

THE COURT:

Cross examine. I think there is nothing in your proposition that you are going to urge. I think it is well settled under the ruling of the Circuit Court.

MR. SLADE: Under Your Honor's ruling -

THE COURT: Was he did not enter the house to make them..

MR. SLADE:

If that is the only limitation you make here, as I understand it, you will admit this evidence?

THE COURT:

I qualified that by saying he did not enter the premises.

MR. SLADE: You mean physically entered into the premises?

THE COURT: Yes.

MR. WOODCOCK:

The witness testified he never was on these premises.

THE WITNESS:

Up to the time they issued the warrant on February 11th I never was within half a block of that house.

BY THE COURT:

Q And you went with the marshal to make the arrest?

A Yes sir.

Q And that was after the tap had been made?

A Yes sir.

REDIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Can you tell me the address of the house where you installed this listening telephone?

A Yes, at the corner of Lopez and the street that parallels Canal St.

Q And that was pointed out and was generally known to your immediate superiors?

A Yes sir. I think it was 130 Lopez St.

Q Your special agent group here knew where it was?

A Yes sir. They live here.

MR. SLADE:

So my position will be clear, I understand Your Honor's ruling that unless I can show that this agent who actually listened in, went in the apartment on these premises -

THE COURT: Or on the premises.

MR. SLADE:

Your Honor includes the apartment itself and the surroundings? I do not know what Your Honor's ruling stands for, if you exclude me from every part of the premises, I will stop -

THE COURT:

I am not stopping you on your cross examination. You are wasting time. If you want to pursue it, go ahead.

OBJECTION: MR. SLADE:

I object to Your Honor's observation on that. I do not

want to take up Your Honor's time.

THE COURT: If you want to pursue it, go ahead.

BY MR. WOODCOCK:

Q As I understand from the testimony, you were never within half a block of the yard or premises?

A No sir.

REGROSS EXAMINATION:

MR. SLADE:

Have I not the right to show where the wires are?

THE COURT: Go on with your cross examination.

BY MR. SLADE:

Q Let me see if we can get this straight. Now take this, this is the location of where the final connection is, so far as the house is concerned -

MR. WOODCOCK:

I want to interrupt you just a moment. The witness is asked to testify about a building. I think he is entitled to say whether that is a correct representation of the locus.

MR. SLADE:

I am going to show him the picture and let him trace it.

MR. WOODCOCK:

I think it should be pointed out to him and ask him if that is correct.

MR. SLADE:

I think you are testifying and not the witness.

OBJECTION: MR. WOODCOCK: I make objection to the Court.

THE COURT:

Sustain the objection. If you want the witness to testify from a plat, I will ask the witness to make a plat.

MR. SLADE:

Very well, Your Honor. I will ask the witness to make a plat. Will Your Honor give us time to study it?

THE COURT:

Yes. As he draws it you can study it. I will let the witness prepare a chart on a piece of paper and report back tomorrow morning at nine o'clock.

Adjourned until 9:00 A. M. May 4, 1933.

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MAY 4, 1933; 9:00 A. M.

MR. WOODCOCK:

For convenience, we ask to put on another witness for a moment, instead of continuing with Mr. Murray.

THE COURT: All right.

MISS AGNES ANDRE: Witness, being duly sworn and examined on behalf of government, testified as follows:

DIRECT EXAMINATION:

BY MR. WOODCOCK:

Q Please state your name? A Miss Agnes Andre.

Q What is your occupation, Miss Andre, and speak loud

enough for everybody to hear you? A Cashier.

Q Cashier of what? A Conservative Homestead.

Q And do you keep the books and records of the apartment house at 7530 St. Charles Ave.?

A Not necessarily. It is only daily receipts I have charge of.

Q Is this what you keep? (Counsel hands witness document and witness examines same)

A Those are my records, yes.

Q Will you turn to the one which relates to the rental of Apartment No. 1? A (Witness does as requested)

Q For what date is that? A This is February 6, 1931.

Q To when? A That is just one day's receipts.

Q And is it for apartment No. 1, 7530 St. Charles Ave.?

A That is right.

Q You made the entry? A I made the entry.

Q In whose name is the entry made?

A You mean the journal?

Q Yes. A Mrs. B. McGregor.

Q You call that what? A McGregor.

THE COURT:

Let the name be spelled and the jury will understand what it is.

BY MR. WOODCOCK:

Q What is this receipt here? (Counsel hands witness receipt and witness examines same)

A This is a receipt of January 5, 1931.

Q Of how much? A \$100.00.

Q For the same apartment?

A For apartment No. 1, Mrs. B. M. McGregor.

Q Did you see the ledger sheet that your superior brought up here yesterday?

A I don't recall it; I didn't see it.

Q But that is your entry that you made at the time the rent was paid? A This is mine, yes. (Indicating)

MR. WOODCOCK: I would like these two papers in evidence.

THE COURT:

Let the papers be identified and offered in evidence.

MR. SLADE:

That is covered by the same ruling, Your Honor, as the previous sheets on the same subject?

THE COURT:

I do not know. If you object to them, interpose your objection.

OBJECTION: MR. SLADE:

Yes, Your Honor, on the same grounds I offered to the sheet in relation to that apartment.

THE COURT: Overruled.

MR. SLADE:

This is Mrs. and the other was somebody else. Exception.

MR. WOODCOCK: They are marked G-67 and G-68.

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ALLEN H. GENERES: RECALLED:

BY MR. WOODCOCK:

Q Mr. Generes, you have been sworn in this case?

A Yes sir.

Q You brought a sheet up here showing the name McGregor apartment No. 11, 7530 St. Charles Ave.?

A Yes sir.

Q This young lady who just testified is your bookkeeper?

A One of our clerks.

Q Does she keep these entries?

A There are several people who keep the entries. She is one of them.

Q Now is there any explanation of why the other sheet had Apartment No. 11, and this Apartment No. 1, that you know of?

OBJECTION: MR. SLADE: I object to that.

BY THE COURT:

Q If in your knowledge there is a discrepancy?

A The only thing I see is a typographical error on the part of the bookkeeper, copying one sheet from the other.

THE COURT: Exclude that, gentlemen.

BY MR. WOODCOCK:

Q Send that sheet back so I can see it? A Yes sir.

BY THE COURT:

Q If some other party was occupying apartment 11, at that

same time, will you get a record of it?

A Yes sir, we have a record of it.

BY MR. WOODCOCK:

Q Bring that record down too, please? A Yes sir.

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W. BRUCE MURRAY: RECALLED:

BY MR. WOODCOCK:

Q Mr. Murray, at the close of the testimony yesterday evening, you were asked to make a plat of the environs of 3327 Canal St. Did you make such a plat?

A Yes sir, I did.

Q Have you got it with you? A Yes sir. (Hands plat)

Q It shows what streets?

A Canal, Iberville, Rendon, Lopez Streets, and Jefferson Davis Blvd.

Q Shows the location of the cables and boxes?

A Yes sir.

Q And the premises in question? A Yes sir.

OFFER: MR. WOODCOCK: I offer that in evidence.

THE COURT;

I suggest the witness get in front of the jury and point out that residence and the place he made the tap.

THE WITNESS:

This is Canal St. (indicating) and this is the direction to the city center. As you go out Canal St., 3327 Canal

St. is on the righthand side of the street; then to Jefferson Davis Blvd. Back here about 200 feet from Canal is the last pole on that cable. (Indicating) From this terminal it takes the open wire to the house.

(Indicating) When I got up on this pole, (indicating) I could see down the back end of this house here. From here the cable, (indicating) the ariel cable beginning at this cable, terminated here, (indicating) one large box on the pole.

Q Let me interrupt just a minute. Is that wire or cable?

A Cable from here to this pole here, and open wire to the house. (Indicating) From here back to this terminal box is also a cable, and across to these two premises here it is open wire again. (Indicating)

Q What was your first connection that we were talking about yesterday evening?

A On February 18th I connected it from this pair in this box to the premises 139 Rendon St. (Indicating)

Q What kind of wire did you use in crossing from this box across to 139 Rendon St.?

A Outside to the conductor.

Q Did you have to put that wire up?

A It was already in place.

Q And it was in this 139 Rendon St. that you installed your first listening set?

A Yes sir.

Q How long did you keep it there? A Until March 25th.

Q Then where did you take it? A 138 Lopez St.

Q How did you get there?

A Jumped the cable pair; 6959 was on to an unused pair that appeared in this terminal, and I connected the wire that extended from this terminal to this house to that pair.

By MR. SLADE:

Q Did you say 138 Lopez St. or 130?

A 138 Lopez St., right on the corner of Lopez and Iberville Sts.

By MR. WOODCOCK:

Q It would be No. 138 on the corner?

A Well, it is 138, at least that is the number that appears on the house. It is the corner house facing on Lopez, and the side is on Iberville St. It is a yellow stucco house.

Q When did you put your listening set in there?

A March 27th.

Q And that continued to when?

A Until - I don't know the date that they terminated the wire.

Q To the date of the arrest, you mean?

A Yes, March 11th.

Q How did you get across that street there?

A The wire was already in place from that terminal to the house and ran down to the cellar.

Q And you did not put up any wire yourself?

A I did not.

Q Were you ever on these premises here? (Indicating)

A Never.

Q Did you go down Canal St.?

A I went down Canal St. several times.

Q And you observed the property? A Yes sir.

Q And how did you know that you had the right wire from this box here, this cable terminal that went into the property?

A I called in on the head set. When I got to that pole I saw these two or three wires going towards the back of this house.

Q Two or three wires or pairs?

A Two conductor outside wires enclosed in one sheath.

Q That would look like one wire?

MR. SLADE:

Don't you testify, Mr. Woodcock. Let the witness testify.

A It looks like one wire, but it is actually two wires in one sheath. I would say there are two or three, practically five or six straight over from it, but going in back of this wire I saw two, and I know it had to be one of those two, and I put on the head set and dialed

the number, knowing if I dialed a number and got the party I would not be on the right wire, and if I got a busy signal I was on it; just one test to get the right wire. I do not remember the exact pair, but the pair that was on here would have to coincide with the one on here.

(Indicating)

Q Did you make any tests after you got your listening in place established?

A Yes sir.

Q That was done by dialing - what was the number?

A 6959.

BY THE COURT:

Q In making one of those taps, you know the number of the telephone, the location, and after you make the tap, you can by dialing the number you are tapping and listening in to messages, determine absolutely whether you have the right telephone tapped, can you not?

A Yes sir.

Q And that is what you did in this case? A Yes sir.

OFFER: MR. WOODCOCK: That is offered in evidence as G-69.

CROSS EXAMINATION:

BY MR. SLADE:

Q Those wires and pairs you spoke of, those are exclusively for the use of subscriber who has the telephone?

A To be used by whoever is using the telephone wire.

Q That is exclusively for the subscriber, for his use?

MR. WOODCOCK: That is a question of law.

MR. SLADE: I ask him whether he knows.

A I know the man who owns the telephone has no power to control who uses the circuit.

Q I am not talking about the circuit. When you get a call that is for your exclusive use -

MR. WOODCOCK: That is purely a question of law.

THE COURT:

You are speaking of the wire which leads the cable into the residence?

MR. SLADE:

Yes. I am speaking of the wire connecting from this feed box to the user of that particular telephone.

THE COURT:

You mean the particular wire that goes to this man's residence? I understand this man -

BY MR. SLADE:

Q Didn't the wire coming from the back of the house connect with that feed box? A Yes sir.

Q And you tested it too? A I did.

Q So you did touch that wire. You had to in order to determine what you were looking for?

A I did not touch that particular wire, but that circuit.

Q You touched everything else but that particular wire in that box; yes or no?

OBJECTION: MR. WOODCOCK:

I object. The Court has already ruled that in this Court the witness is not required to answer yes or no.

BY THE COURT:

Q The question is, did you in making this tap, did you connect the wire which led into the residence?

A No sir, I did not.

BY MR. SLADE:

Q Did not what?

A Did not make any connection with the wire that led from the last terminal to the residence.

Q But you went into the box where it led to?

A Yes sir.

Q And you touched those different apparatuses in there which has to do with the connection? A Yes sir.

Q Are you a graduate in any wire tapping school?

A I am an instructor in wire tapping.

Q And you make taps of other peoples wires without permission, for pay, your exclusive business? A Yes.

Q What was the date you say you tapped this wire?

A February 18th.

Q Did you testify in the preliminary hearing in this case?

A I don't remember.

Q Do you mean to tell this jury that you do not remember whether you testified in the preliminary hearing of this case?

A This is not my post of duty.

Q I did not ask you that?

A I am qualifying my answer. This is not my post of duty, and I have been called back here to New Orleans quite a few times, and I cannot remember exactly if I was called back on this particular wire.

BY THE COURT:

Q You mean you testified in other wire tapping cases?

A Yes sir.

Q If you remember testifying in this case, or if you can refresh your recollection -

A I do not remember.

BY MR. SLADE:

Q Well, didn't you in your examination say that you completed your wire tapping on March 12th?

MR. WOODCOCK: I do not object. The witness can answer it.

A I do not remember it.

Q You do not remember that? A No, I don't.

Q Let me read the question and answer, and -

MR. WOODCOCK: May I ask what you are reading from?

MR. SLADE:

The examination of this witness at the preliminary hearing.

MR. WOODCOCK: Under what name is the witness?

MR. SLADE: W. Bruce Murray.

THE WITNESS: That is right.

THE COURT: Is that proceedings in this case?

MR. SLADE: Yes sir.

MR. WOODCOCK: It is not in this Indictment.

MR. SLADE: It is in the superceding Indictment.

THE COURT: All right. You can ask him about it.

BY MR. SLADE:

Q "What was the date of this? A. March 12th." Is that true?

THE COURT:

That might be true, and the witness' present testimony be true. I will ask you to let the witness read the testimony if that is his testimony, because your question does not have any reference to your conclusion about the wire tapping here. It is wholly untelligible.

BY MR. SLADE:

Q "After it was installed; I made an installation of the drop wire on to another cable pair, or on to the cable pair that Bert Morrison's telephone was on and let it in the vacant house in the 7500 block in Iberville Street, and after it was in I connected the test set to it and dialed Bert Morrison's number, and being on the same number I got a busy signal." Is that your answer?

A I cannot remember the exact words I testified to. How long ago has that been?

Q That was taken along the 14th of April 1931?

A April 1931?

Q Yes. A I don't remember if I testified to that.

Q And then following what I just read is the next question:
"Is that all? A. That is all. Q. What was the date of this?
A. March 12th." Does that refresh your recollection now?

A No, it does not.

Q But you would not say you did not so testify, would you?

THE COURT:

There is nothing here to indicate whether that was the
same wire tapping that he is now testifying about.

BY MR. SLADE:

Q I will go back -

A JURYMAN:

Did I understand you to say the 7500 block on Iberville
St.?

MR. SLADE: Yes.

A JURYMAN:

How could that be? There is no such number in the city
of New Orleans.

MR. SLADE:

I am giving you the testimony from the record reported
by the stenographer in that preliminary hearing before
the Commissioner.

MR. WOODCOCK: Begin at the beginning?

MR. SLADE: I will begin where I think I should begin.

OBJECTION: MR. WOODCOCK:

I object. Let him begin at the beginning of the sentence.

THE COURT:

You must read enough of the testimony so the witness will be able to intelligently tell whether you are asking him about the same wire tapping.

MR. WOODCOCK: You should read the first page.

THE COURT:

You have not made it clear at all whether you asked him about the same wire tapping, and you must do that.

MR. WOODCOCK:

I will ask that he read all of the witness' testimony, at least beginning at the start.

MR. SLADE:

I intend to do so, but I won't take any instructions from you.

THE COURT:

Then you cannot do anything. The Court has instructed you what to do, and you will conduct this examination according to the Court's instructions.

MR. SLADE:

I will take Your Honor's instructions, but he should not tell me what to do.

THE COURT: He has the right to object.

MR. SLADE:

I am going to read the question, and Your Honor can see whether it has any reference to this wire.

OBJECTION: MR. WOODCOCK:

I object to that question in the middle of the page.

THE COURT: Let him ask the question.

BY MR. SLADE:

Q "Mr. Murray, will you explain how you tapped this wire, telephone Galvez 6959" - that is the one we are talking about?

A Yes sir.

Q "Just give us an outline of the procedure you followed?"
That was the question asked of you?

A Yes sir, it was.

Q Now, in answer to the question did you say as follows:
"Well, I first got the cable pair, found out what cable pair this line was on, and in this particular instance the circuit originated in the exchange and proceeded in an underground cable to the vicinity of 3300 Canal Street, or actually 3300 Iberville Street. It came out on a pole there and from there it entered an ariel cable at another assigned pair, and this terminated at an ariel termination about a half block from the rear of Morrison's house at 3327 Canal Street. From there we took a piece of outside drop wire and proceeded in the direction of the house. After it arrived at the house it was attached to the lightning arrester." I show you a picture and

ask you whether that is the lightning arrester you had reference to in that testimony, as it appears on that picture? (Counsel hands witness picture and witness examines same)

A Would you read that answer again, please?

Q Yes. I will read you the part that refers to this. "From there we took a piece of outside drop wire and proceeded in the direction of the house. After it arrived at the house it was attached to the lightning arrester."

MR. WOODCOCK:

I ask that more of the testimony be read before the witness is required to answer.

BY MR. SLADE:

Q You want me to read further? A Yes, I do.

Q All right. "After it arrived at the house it was attached to the lightning arrester, and from there took inside the inside wire to the instrument, the bell box." Did you so testify?

A I testified that was at the other end of the wire, the listening in end.

Q Did you testify to that? A I believe I did.

Q Is that the bell box and arrester appearing on that picture? A No. This is on the premises of Mr. Morrison -

Q Exactly. Then following what I read: "Q. Is that all?

A. That is all. Q. What was the date of this? A. March

12th." Did you so testify?

A I did.

MR. WOODCOCK:

I ask for an opportunity to see the document from which the witness was cross examined.

MR. SLADE: That particular page, yes.

THE COURT: None of it has been offered in evidence.

MR. SLADE:

I just read it to him and asked him whether he so testified.

MR. WOODCOCK: I simply want to see the testimony before and after.

THE COURT: Yes. I think that would be fair.

MR. SLADE: I will let him see the page I read from.

THE COURT:

I think he is entitled to see all this witness' testimony on that occasion. If that is an official report of his testimony on that occasion, I think Counsel is entitled to see it.

MR. SLADE:

I am not offering that as official. I am asking him if on another occasion he testified in another Court as follows. He admitted that he did.

MR. WOODCOCK:

Of course, I am merely making the request to see what the context of this testimony is. If you do not want me to see it -

MR. SLADE:

I am sorry. I do not think it is fair to place us in the position of having to refuse you.

THE COURT:

The Court does not think it is fair for you to come in the presence of the jury and read the report by a public stenographer of the witness' testimony, and not allow government Counsel to see it.

MR. SLADE:

I take exception to Your Honor's observation, and do not think it is fair to Counsel for defense. I have a perfect right -

THE COURT:

You have in your hands what is evidently purported to be a transcript of his testimony on that occasion.

MR. SLADE:

I respectfully take exception to Your Honor's observation.

THE COURT:

I am not required to deliver it to Counsel, but I make that observation.

A JURYMEN: Is that a Court record.

THE COURT:

It is not offered. The Court cannot pass on it because it is not offered.

MR. SLADE:

Counsel has access to the record. We do not have to supply him at our expense. He did not give us a copy.

MR. WOODCOCK:

I have never seen any stenographic report of the hearing before the Commissioner, and my information is there was no official report made of that hearing, so Counsel must have had some private stenographic transcription. Mr. Norman is here and was at the hearing, and he can verify that.

THE COURT:

I will not require Counsel to offer it in evidence, or let you have it.

MR. WOODCOCK:

I simply want to say I have not got it, and have never seen it.

BY MR. SLADE:

Q Did you ever communicate with anybody in the Telephone Company with a view of getting their permission to tap these wires?

A No sir.

Q After you completed your wire tapping did you advise the Telephone Company that you did so, did you tell them you would tap these wires?

A I did not.

Q Did they ever directly or indirectly either consent to your act of wire tapping as you described in your testimony today?

OBJECTION: MR. WOODCOCK:

Objected to as irrelevant and immaterial.

THE COURT:

I will permit the witness to answer the question with this explanation. It has been settled by the Courts of this country that it does not invalidate evidence of this kind obtained by the man making the taps.

OBJECTION: MR. SLADE:

I take exception to Your Honor's observation.

A No sir.

BY A JURYMEN: May I have the question again?

BY MR. SLADE:

Q Did the Telephone Company ever give you any authority or right either directly or indirectly to permit this wire tapping on the wire you testified to?

A No sir.

Q Did you get the consent of the subscriber for the privilege to tap that wire? A I did not.

Q Did you ever attempt to ascertain whether the law prohibited wire tapping in the State of Louisiana?

THE COURT: I will sustain objection to that.

MR. SLADE: There is no objection.

MR. WOODCOCK:

I was on my feet to object. I object to this whole line of inquiry because it is irrelevant.